



Housing Authority of the County of Merced

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## *Annual Plan for Fiscal Year:*

*10/1/2022 – 9/30/2023*

*PHA Code: CA023*

*U. S. Department of Housing and Urban Development  
Office of Public and Indian Housing*

<b>Annual PHA Plan</b> <i>(Standard PHAs and Troubled PHAs)</i>	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires: 02/29/2016
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**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families.

**Applicability.** Form HUD-50075-ST is to be completed annually by **STANDARD PHAs or TROUBLED PHAs**. PHAs that meet the definition of a High Performer PHA, Small PHA, HCV-Only PHA or Qualified PHA do not need to submit this form.

**Definitions.**

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both of the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments if administering both programs, or PHAS if only administering public housing.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, or at risk of being designated as troubled, that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceeds 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceeds 550, and that was designated as a standard performer in the most recent PHAS or SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined, and is not PHAS or SEMAP troubled.

A. PHA Information.					
A.1	PHA Name: <u>Housing Authority of the County of Merced</u> PHA Code: <u>CA023</u> PHA Type: <input checked="" type="checkbox"/> Standard PHA <input type="checkbox"/> Troubled PHA PHA Plan for Fiscal Year Beginning: (MM/YYYY): <u>10/2022</u> PHA Inventory (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) Number of Public Housing (PH) Units <u>421</u> Number of Housing Choice Vouchers (HCVs) <u>2949</u> Total Combined Units/Vouchers <u>3,370</u> PHA Plan Submission Type: <input checked="" type="checkbox"/> Annual Submission <input type="checkbox"/> Revised Annual Submission				
<p><b>Availability of Information.</b> PHAs must have the elements listed below in sections B and C readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans. <b>SEE ATTACHMENT A</b></p>					
<input type="checkbox"/> PHA Consortia: (Check box if submitting a Joint PHA Plan and complete table below)					
	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program
					PH                      HCV
	Lead PHA:				

<b>B.</b>	<b>Annual Plan Elements</b>
<b>B.1</b>	<p><b>Revision of PHA Plan Elements.</b></p> <p>(a) Have the following PHA Plan elements been revised by the PHA?</p> <p>Y N</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Financial Resources.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Rent Determination.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Operation and Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Grievance Procedures.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Community Service and Self-Sufficiency Programs.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Safety and Crime Prevention.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Pet Policy.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Asset Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Substantial Deviation.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Significant Amendment/Modification</p> <p><b>PHA Plan Elements – See Attachment B</b></p> <p>(b) If the PHA answered yes for any element, describe the revisions for each revised element(s):</p> <p><b>HCV/Section 8 Administrative Plan Changes – See Attachment C</b></p> <p><b>ACOP Changes – See Attachment D</b></p> <p>(c) The PHA must submit its Deconcentration Policy for Field Office review. <b>See Attachment E</b></p>
<b>B.2</b>	<p><b>New Activities.</b></p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA’s current Fiscal Year?</p> <p>Y N</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Designated Housing for Elderly and/or Disabled Families.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Tenant-Based Assistance.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Project-Based Assistance under RAD.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Occupancy by Over-Income Families.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Occupancy by Police Officers.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Non-Smoking Policies.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Project-Based Vouchers.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Units with Approved Vacancies for Modernization.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project based units and general locations, and describe how project basing would be consistent with the PHA Plan.</p> <p><b>The Authority may issue a request for Project Based Vouchers to support the goal of expanding the supply of affordable housing. Such proposals will be considered on a case-by-case basis. The Authority may elect to Project-Base up to 20% of budget authority, as allowed by program regulations. Project-Based units may be located anywhere in the jurisdiction of the Authority.</b></p> <p><b>A full Authority portfolio review will be conducted for recommendations pertaining to the preservation of its existing public housing assets and development of new affordable housing units. The Authority is looking to see if RAD is feasible and cost effective for the Public Housing units in Merced County.</b></p>

<p><b>B.3</b></p>	<p><b>Civil Rights Certification.</b></p> <p>Form HUD-50077, <i>PHA Certifications of Compliance with the PHA Plans and Related Regulations</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p> <p style="text-align: center;"><b>See Attachment F</b></p>
<p><b>B.4</b></p>	<p><b>Most Recent Fiscal Year Audit.</b></p> <p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y   N  <input type="checkbox"/>   <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p>
<p><b>B.5</b></p>	<p><b>Progress Report.</b></p> <p>Provide a description of the PHA’s progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan.</p> <ul style="list-style-type: none"> <li>• <b>Goal 1 – Preserve and expand Authority’s affordable housing programs.</b> <ul style="list-style-type: none"> <li>○ Received XX Mainstream Vouchers.</li> <li>○ Continue research in the development of “Tiny” or “Small” homes in Authority own lots.</li> <li>○ Allocated additional vouchers to assist the Coordinated Entry System with housing chronically homeless persons.</li> </ul> </li> <li>• <b>Goal 3 – Strengthen partnerships with City and County to develop and maintain affordable housing, furthering Authority’s mission.</b> <ul style="list-style-type: none"> <li>○ Actively participate in the City of Merced Housing Element Plan.</li> <li>○ Actively participate in the Los Banos Housing Element Plan.</li> <li>○ Actively participate in the Continuum of Care.</li> <li>○ Utilize all opportunities to promote affordable housing needs in the community.</li> </ul> </li> <li>• <b>Goal 4 – Improve the quality of assisted housing.</b> <ul style="list-style-type: none"> <li>○ Additional Public Housing developments located in Los Banos, Livingston, and Merced have been identified for the replacement of kitchen counter tops and cabinets. This will also include bathroom countertop(s) and cabinets replacement, as well as replacing the existing flooring throughout the unit. During the review process it was determined that these specified units have the cabinets, countertops and flooring from when they were originally built. The Authority will seek sealed proposals as required by the procurement policy, conduct a wide-spread advertising, send notifications and proposal packets to Builders Exchange and conduct a direct solicitation will be obtained by mailing out letters to general building contractors.</li> </ul> </li> <li>• <b>Goal 5 – Promote and secure services for Authority residents and participants.</b> <ul style="list-style-type: none"> <li>○ Increase participation of the FSS program with Public Housing residents.</li> <li>○ Partnered with Central Valley Opportunity Center to provide ESL, GED, and vocational training to Authority clients.</li> <li>○ Partnered with County and State officials to provide COVID-19 testing and vaccinations.</li> </ul> </li> <li>• <b>Goal 6 – Strengthen the agency’s financial position and its ability to respond to shifting economic conditions.</b> <ul style="list-style-type: none"> <li>○ Refinanced high interest bonds to lower rates and invested proceeds into the upkeep and upgrade of the complexes.</li> </ul> </li> </ul>
<p><b>B.6</b></p>	<p><b>Resident Advisory Board (RAB) Comments.</b></p> <p>(a) Did the RAB(s) provide comments to the PHA Plan?</p> <p>Y   N  <input checked="" type="checkbox"/>   <input type="checkbox"/></p> <p>(c) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p> <p style="text-align: center;"><b>See Attachment G</b></p>
<p><b>B.7</b></p>	<p><b>Certification by State or Local Officials.</b></p> <p>Form HUD 50077-SL, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p> <p style="text-align: center;"><b>See Attachment H</b></p>

<p><b>B.8</b></p>	<p><b>Troubled PHA.</b>  (a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place?  Y N N/A  <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p>
<p><b>C.</b></p>	<p><b>Statement of Capital Improvements.</b> Required for all PHAs completing this form that administer public housing and receive funding from the Capital Fund Program (CFP).</p>
<p><b>C.1</b></p>	<p><b>Capital Improvements.</b> Include a reference here to the most recent HUD-approved 5-Year Action Plan (HUD-50075.2) and the date that it was approved by HUD.</p> <p style="text-align: center;"><b>See Attachment I</b></p>

CA023 – Housing Authority of the County of Merced (Authority)

## **A.1 PHA INFORMATION**

### **Availability of Information**

All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the Authority and at all other times and locations identified by the Authority in its Plan and will continue to be made available at least at the primary business office of the Authority.

- Central Office – 405 U Street, Merced, CA 95341
- AMP 1 Site Office – 400 West Avenue, Merced, CA 95341
- AMP 2 Site Office – 2870 Crest Road, Atwater, CA 95301
- AMP 2 Site Office – 1005 8th Street, Livingston, CA 95334
- AMP 3 Site Office – 88 7th Street, Los Banos, CA 93635
- AMP 3 Site Office – 21918 Lexington Avenue, Dos Palos, CA 93620
- AMP 3 Site Office – 21227 S. Reynolds Avenue, Dos Palos, CA 93620
- Authority Website: [www.merced-pha.com](http://www.merced-pha.com)

## Attachment B – Annual Plan Elements

CA023 – Housing Authority of the County of Merced (Authority)

### B1.1 ANNUAL PLAN ELEMENTS

#### Statement of Housing Needs and Strategy for Addressing Housing Needs

Data used to assist in determining local housing needs have come from multiple sources which include the Authority's Waiting List, City of Merced- Consolidated Plan, the Housing Element Plan, and Merced County General Plan.

The Authority has analyzed the housing needs of low, very low and extremely low-income families who reside in the Authority's jurisdiction. The housing needs of the very low and extremely low-income families who reside in the community continue to be great. According to current U.S. Census Bureau information 30.2% of the population is living below the poverty level. In addition, Merced County unemployment leads the state and the nation with 8.2% unemployment.

See Housing Needs from the Authority's wait list below.

<b>Housing Needs of Families on HCV/Section 8 Waiting List</b>		
	<b># of families</b>	<b>% of total families</b>
Waiting list total	2379	
Extremely low income <= 30% AMI	1092	46%
Very low income (>30% but <=50% AMI)	748	31.4%
Low income (>50% but <80% AMI)	538	22.6%
Families with children	1195	50.2%
Elderly families	87	3.7%
Families with Disabilities	289	12.1%
Race/ethnicity: White	661	27.8%
Race/ethnicity: Black	1173	49.3%
Race/ethnicity: Asian	69	2.9%
Race/ethnicity: Hispanic	771	32.4%

The waiting list was reopened on February 2, 2022, and stayed open through March 4, 2022. On January 20, 2022 the Authority selected 1200 applicants from the waiting list, however, due to the vacancy rate and skyrocketing rents many families are experiencing difficulty securing housing.

CA023 – Housing Authority of the County of Merced (Authority)

**B1.2 ANNUAL PLAN ELEMENTS  
SIGNIFICANT**

**Financial Resources**

<b>Financial Resources: Planned Sources and Uses</b>		
<b>Sources</b>	<b>Planned \$</b>	<b>Planned Uses</b>
<b>1. Federal Grants (CY 2021 grants)</b>		
a) Public Housing Operating Fund	1,628,266	Public Housing
b) Public Housing Capital Fund <b>CA01P02350121</b>	1,210,000	Unit Rehab
c) HOPE VI Revitalization		
d) HOPE VI Demolition		
e) Annual Contributions for Section 8 Tenant-Based Assistance	20,452,315	Housing Choice Voucher Rental Assistance
f) Resident Opportunity and Self-Sufficiency Grants	54,400	Ross Coordinator
g) Community Development Block Grant		
h) HOME		
Other Federal Grants (list below)		
USDA – RD Rental Assistance	315,780	
CARES Public Housing OpFund		
CARES Section 8 Tenant Based Assistance		
<b>2. Prior Year Federal Grants (unobligated funds only) (list below)</b>		
j) Resident Opportunity and Self-Sufficiency Grants		
Public Housing Capital Fund 2020	277,079	
<b>3. Public Housing Dwelling Rental Income</b>	1,882,904	Public Housing Operations
<b>4. Other income (list below)</b>		
Shelter Plus Care	72,978	Rental Assistance
VASH	584,875	Rental Assistance
Mainstream	20,625	Rental Assistance
CARES - Mainstream		
<b>5. Non-federal sources (list below)</b>		
State Programs	1,349,513	Operations
Local	379,087	Operations
<b>Total resources</b>	<b>28,227,822</b>	



CA023 – Housing Authority of the County of Merced (Authority)

**B1.3 ANNUAL PLAN ELEMENTS**

**Rent Determination**

Public Housing residents are provided the choice of paying an Income-Based or a Flat Rent at initial Lease-Up and at Annual Reexamination. The Authority has established the Minimum Rent at \$50 unless the household qualifies for an exemption, as requested by the client and verified by the Authority.

Per PIH Notice 2014-12, 2015-13 and 2017-23, the PHA is required to increase the established Public Housing Flat Rents to no lower than 80 percent of Fair Market Rent (FMR) in order to be in compliance with HUD requirements.

Under the HCV Program, the Authority establishes Payment Standards based upon the HUD-published Fair Market Rents. The Authority reviews proposed rents to ensure they meet the rent reasonableness criteria set by HUD and that Contract Rents are reasonable in relation to rents currently being charged for comparable units in the private, unassisted market. The tenant's portion of rent is determined by their income.

CA023 – Housing Authority of the County of Merced (Authority)

**B1.4 ANNUAL PLAN ELEMENTS**

**Homeownership Programs**

The Authority created a Homeownership Program (HOP) for tenants residing in public housing. The Homeownership Program was established to provide an opportunity for low income families who ordinarily could not afford to buy their own homes, to do so. Families are required to meet normal eligibility requirements for public housing and must, in addition, demonstrate the potential to achieve homeownership status. Such potential involves an income which is stable and sufficient to pay operating costs and build up equity towards the required down payment. Prospective tenants are required to attend a variety of classes which include homeownership, credit counseling, home maintenance, how to maintain a loan, etc.

95 families have benefited from the program and achieved homeownership. Currently there are 3 available homes for prospective families.

CA023 – Housing Authority of the County of Merced (Authority)

## **B1.5 ANNUAL PLAN ELEMENTS**

### **Safety and Crime Prevention**

The Authority partners with local law enforcement agencies (Police, Sheriffs and District Attorney) to determine the safety needs of the residents and community, working towards a mutual goal of ensuring and improving the safety of residents. The Authority has undertaken partnerships with local organizations to encourage the prevention of crime and/or drug activities, especially targeting at-risk youth.

Measures taken by the Authority include:

- Resident reports
- Authority employee reports
- Police reports
- Encouragement for residents to form volunteer neighborhood watch programs
- Working with law enforcement to analyze crime statistics over time for crimes committed “in and around” public housing authority
- Analysis of vandalism and removal of graffiti
- Safety and security survey of residents

### **Violence Against Women Act (VAWA)**

- The Authority supports the goals of the VAWA Amendments and complies with all requirements and will continue to administer its housing programs in ways that support and protect residents (including Section 8 Housing Choice Voucher program participants) and applicants who may be victims of domestic violence, dating violence, sexual assault or stalking.
- The Authority will not take any adverse action against a resident/participant or applicant solely on the basis of her or his being a victim of such criminal activity, including threats of such activity. “Adverse action” in this context includes denial or termination of housing assistance.
- The Authority will not subject a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard of lease compliance than other residents.
- The Authority has developed policies and procedures to comply with the requirements of VAWA. The victim or threatened victim of an incident or incidents of actual or threatened domestic violence, dating violence or stalking will not be construed as a serious or repeated violation of the lease, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence. The Authority may terminate the assistance/tenancy to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants. The Authority may honor court orders regarding the right of access or

## **Attachment B – Annual Plan Elements**

control of the property and orders issued to protect the victim and to address the distribution or possession of property among household members where the family “breaks up”. There is no limitation on the ability of the Authority to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims. There is no prohibition on the Authority terminating assistance if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) assistance is not terminated”. Any protections provided by law which give greater protection to the victim are not superseded by these provisions. The Authority may require certification by the victim of victim status on such forms as the Authority and/or HUD shall prescribe or approve.

## Attachment B – Annual Plan Elements

CA023 – Housing Authority of the County of Merced (Authority)

### **B1.6 ANNUAL PLAN ELEMENTS**

Substantial deviation(s) or significant amendments(s) or modification(s) are defined as discretionary changes in the plans or policies of the Authority that fundamentally change the mission, goals, objectives, or plans of the agency and which require formal approval of the Authority Board of Commissioners. Revisions to the Capital Fund budget are not considered a substantial deviation or significant amendment or modification the PHA plan.

A significant amendment or modification of the 5-year plan or annual plan includes a major deviation from any activity, proposed activity, or policy provided in the agency plan that would affect services or programs provided to residents.

This definition does not include minor budget revisions to previously approved activities; changes in organizational structure; changes resulting from HUD-imposed regulations; or minor policy changes; or changes to flat rent schedules and policies that will remain in compliance with Sections 210 and 243 of Title II of Public Law 113-76, the Consolidated Appropriations Act of 2014, 24 CFR 903.7(d) and implementing HUD guidance.

As part of the Rental Assistance Demonstration (RAD), the Authority is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items:

The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;

- A. Changes to the Capital Fund budget produced as a result of each approved RAD conversion, regardless of whether the proposed conversion will include use of additional capital funds;
- B. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- C. Changes to the financing structure for each approved RAD conversion

## **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 be in compliance with 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 1

### 1-I.A. Mission Statement

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

### 1-I.B. Vision Statement

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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.

### 1-I.C. Local Objectives

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

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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.

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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.

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6. To encourage and promote the ability to be able to choose housing in area's that achieve deconcentration of extremely to very low-income families of all races and backgrounds.

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The Authority ~~will~~ 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.

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**1-I.D. The HCV Administrative Plan [24 CFR 982.54]**

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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 hhave 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.

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**1-I.E. - Overview and Purpose Of The Administrative Plan**

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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

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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 these 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.



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

The administrative plan must be in accordance with HUD regulations found in 24 CFR 982.54 –is– 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.

**1-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

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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 ~~consolidated~~ Annual Consolidated Contract (ACC) and all HUD-approved applications for program funding.

### 1-I.H. Terminology

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

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**1-1.I. Fair Housing [24 CFR ~~982.534(d)(6)~~ 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.

**1-1.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 ~~fully~~ 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 HCV-P 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

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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.

**1.I.K. Affirmatively Furthering Fair Housing: Purpose § 5.150**

The purpose of the Affirmatively Furthering Fair Housing (AFFH) regulations in §§ 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, ~~F~~to further its commitment to full compliance by fully complying with applicable Civil Rights laws. ~~The~~ Authority will provide Federal, ~~S~~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

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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 original (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 CFRR 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 conduct an investigation into all allegations of discrimination.

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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

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## Discrimination Information for Persons with Disabilities

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### 1-I.L. Disability and Reasonable Accommodation

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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.

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### 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 unit, including public and common use areas.

~~The Authority will ensure that persons with disabilities have full access to the programs and services it administers, to be service directed in the administration of housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.~~

### 1-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].

~~A participant~~ Persons with a disability must ~~first 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 given reasonable accommodations, ~~upon request~~, 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. ~~related material and 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 described in this Administrative plan at every level of assistance. ~~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 for request~~ 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 ~~must 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 having a "disability" ~~that they are a person with a disability~~ as defined by the American Disabilities Act (ADA). ~~as having:~~ having:

~~To be eligible to request a reasonable accommodation, the requester must that they are a person with a disability as defined by the American Disabilities Act (ADA) as 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.

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1-I.N. Reasonable Accommodations -Verification of Disability -Defined

~~For all aspects of the lease and grievance procedures, a handicapped person shall be provided reasonable accommodation to the extent necessary to provide the handicapped person with an opportunity to use and occupy the dwelling unit equal to a non-handicapped person.~~

~~The PHA shall provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy~~

~~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.~~

~~Authority mailings will be made available in an accessible format upon request, as a reasonable accommodation.~~

~~The Authority must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability.~~

~~Under Federal Law, possession or use of marijuana is currently illegal. Federal Law supersedes current state law that permits both medicinal and recreational possession and use of marijuana.~~

~~The programs that the be Authority administers are funded with Federal funds and the Authority will not grant a reasonable accommodation that would allow participants to grow, use, otherwise possess, or distribute medical or recreational~~

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~~marijuana, even if in doing so such tenants are complying with state laws authorizing medical or recreational 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 or recreational marijuana. This is in accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661).~~

### **1-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 undo 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 ten (10) days, 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 ten (10) days from the most recent discussion or communication with the family.

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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).

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### 1-I.P. Verification Of Disability

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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.

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The Authority must verify that the person or family claiming to have a disability meets the preference and claim as defined under 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.

### 1-I.Q. Applying for Admission

Persons who wish to apply for any of the Authority housing programs must are required to register on the Authority's 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) when wait list(s) are open. Online registration is available by visiting [www.merced-pha.com](http://www.merced-pha.com) and selecting the Rent Café online portal link. A valid email is required at time of registration. Individuals interested in applying are required to register in order to access and submit a waitlist preapplication. Information will be made available by Public Notice and on the Authority website prior to a wait list opening or closing, as indicated in all public notices announcing the opening of a housing program wait list.

Applicants must update their information as changes occur to remain on the wait list(s) they've applied to until one an being applicant is selected for a housing program from a wait list. Applicants who fail to keep their preapplication up to date may be cancelled or removed if the Authority attempts to contact the applicant and applicant fails to respond.

When an applicant is selected from the wait list, the Authority requires a full housing program application is to be completed at the time of the eligibility intake appointment and completed. The Authority may communicate with the applicant thru email using the online portal account, by U.S. Mail, or by telephone. Applicants on a wait list are encouraged to check the email account registered in the application online portal as this is the Authority's first method to communicate their preapplication has been selected in the applicant's own handwriting.

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~~The Authority will accept preapplications online at www.merced-pha.com. The Authority may allow an applicant to submit a hard paper copy of the full eligibility application unless if needed assistance is needed as a reasonable accommodation being requested by a person with a disability.~~

Information provided by ~~the an~~ applicant ~~family at during~~ intake will be reviewed ~~and verified~~ by the ~~designated~~ Authority ~~staff~~ to determine eligibility.

For persons claiming to be disabled and who are not receiving Social Security Disability benefits ~~will require the may require will require~~ verification of disability ~~to be completed to confirm the persons disability meets the definition~~ as defined by the ADA. ~~Persons who are determined to meet the criteria and definition of disabled may request a reasonable accommodation at this time. The full housing application provides additional information asking applicants if anyone in the household is disabled or requires a reasonable accommodation.~~

**Persons with a Disability:**

~~Pre-A full eligibility~~ applications will be made available in an accessible format upon request by a person with a disability.

**1-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.

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**1-1.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, ~~the Authority~~ 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.

**1-1.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].

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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).

**1-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.

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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

1-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", or returned to the family member after verified, or destroyed, its use. The personal information in a this 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 ~~will be~~ stored in a secured location, ~~which is~~ 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 ~~in the Office of Management and Budget (OMB), M-07-16 as~~ information which can be used to distinguish or trace an individual's identity, such as their

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name, social security number, biometric records), etc., when used alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual. (dates of birth, and places of birth, of birth, mother's maiden name), etc."

- **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 sensitive 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 of in accordance with the Authority Personnel Policy and Protection at Workstation Policy.

### 1-1.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.

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~~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. ~~—or during a reexamination.~~

~~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 at each 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. ~~and for multiple subsidy payments~~

The Authority staff may not disclose EIV data to ~~any~~ 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, the individual. ~~Access to share information with (only) to whom the record pertains and to the~~ 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 of minors in the home, at which time information may be provided to the minor's parent or guardian.

The Authority is required to store Ffiles ~~are stored~~ in a secured area and files that require to be pulled or removed from the file room must be signed for ~~when removed~~ by the person removing the file from the secured file storage area.

**1.1.Y. Family Outreach**

HUD requires the The Authority will 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 preapplicants 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.

**1-1.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 providing-agreeing to rent decent, safe and sanitary housing units to participants on the HCV program.

The Authority\_ conducts periodic events and/or\_ and workshops with-local owners who have rental properties in Merced County, and-\_property management companies, and affiliate agency staff\_ to improve relations, educate interested parties about the subsidized program, and to recruit new owners and landlords.

The Authority, upon request -makes- informs clientele of the online web-site it utilizes to list of local rentals posted by owners with properties. The Authority

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~~provides a printed version of the listing by request. available. The site provides information about units for rent within the county that are for rent by owners. Most of the owners, a list of property managers, owners, and landlords who are known to participate and may be accepting the HCV program voucher. A printed list of units posted to GoSection8.com may be made available (upon request). Listings are available online by visiting [Affordablehousing.net](http://Affordablehousing.net) (formerly GoSection8.com).~~

~~Upon requested, printed material may be made available to owners and managers interested in learning about the opportunities and benefits of the program.~~

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

#### **I-2.A. 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

### APPLICATIONS, WAIT LIST AND TENANT SELECTION [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 ~~completing~~ applying for a housing wait list program by submitting the initial preapplication ~~(s) when applying to a housing assistance program waiting list,~~ placement on a wait list, ~~eligibility requirement(s), and~~ 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 to~~ be used in determining program eligibility. The Authority utilizes information provided by the family into determining proper placement on a waiting list and as the initial source of verifications prior to and upon ~~after~~ 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 ~~to verify income~~ and confirm that the preferences are applicable to the family, in order to determine eligibility.

The information received during the intake process ~~also~~ assists the Authority with providing the family additional service ~~and resources information and resources to the family~~ 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.~~

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## The Application Process

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### 2-I.A. Overview of the Preapplication Process

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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.

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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.

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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

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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's utilizes an online application portal that 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 ~~available on~~ the Authority's website at [www.merced-pha.com](http://www.merced-pha.com).

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Through online registration on the Rent Café portal, applicants Registration on the portal creates the applicant a user account that is utilized to stores 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 applicant to submit the family to login at their

~~convenience to update and report any changes that occur while on the waiting list preapplication(s) when accepting, provides ability to make changes and update their information to keep the application(s) current.~~ The portal allows applicants to view the status of ~~their~~ submitted preapplications.

~~**Disabled Persons:** As a reasonable accommodation for a disabled applicant, ~~the Authority may elect to accept online approve a paper preapplications to be submitted only unless by requested as a reasonable accommodation by a person with a disability.~~~~

#### 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 Limited English Proficiency (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 periodically to review and confirm the information is current and up to date. This includes but is not limited to and to updating their email address, changes to their resident and/or mailing address and telephone number(s). Changes should be reported as at the time they change(s) occur. The pre-application may be cancelled if the Authority receives undeliverable correspondence.

~~Periodically, the Authority may must purge its the waiting lists from time to time and and communication(s) are sent via email through the online portal, and having up to date information such as the email address and contact information is pertinent to remaining on its wait lists. The Authority may send correspondence through the portal to an applicant registered email or send by mail, an interest card to confirm continued interest in remaining on the waiting list(s) and to confirm their information is current.~~

The Authority ~~communicates~~ with applicants via the online portal account ~~thru~~ to the e-mail address provided at the time of registration. ~~in the online account making it critical that the preapplication is up to date with current and active information.~~

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~~Preapplications and other assistance will be made available and in an accessible format upon request from a person with a disability. The second phase is known as the "full application" to determine final eligibility. Once selected from a wait list, the Authority must review and verify the information reported in the family's pre-application such as gross household income, disability, veteran status (if applicable), and other preferences reported.~~

~~It is the responsibility of the Authority to ensure that verification of all HUD and Authority eligibility factors are met and that the household information provided either by the family or verified by third party source is current (no more than 60 days old) and accurate when determining the family's final eligibility.~~

~~Persons with a Disability may contact the Authority to request assistance for other available formats for providing information other than through the online portal.~~

**2-1.E Criteria Defining What Families May Apply [CFR 982.2062]**

The Authority may adopt criteria defining what families may apply for assistance under a public notice.

When a waiting list is open, the Authority must accept preapplications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance because of action or inaction by the family (such as failure to provide requested information, illegal activity, debt owed to a Housing Authority, etc.).

**2-1.F. Waiting List Admissions and Special Admissions [CFR 982.2021]**

Waiting list admissions and special admissions:

The Authority may admit an applicant for participation to a program either:

- As a special admission (see CFR 982.203)
- As a waiting list admission (see 982.204 – 982.210)

Prohibited admissions criteria:

Where family lives: Admission 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.

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

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Family characteristics: The Authority preference system may provide a preference for admission of families with certain characteristics from the Authority waiting list. Admission to the program may not be based on:

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- 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)].

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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.

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**2-I.G. Special Admissions (non-waiting list): Assistance targeted by HUD**

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**A. If HUD awards an Authority funding that is targeted for families living in specified units:**

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- 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, or 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:**

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- 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 opens ~~a the~~ waiting list(s), it will publish a ~~Public a~~ Notice in compliance with HUD Fair Housing requirements ~~will be given seto~~ inform ~~that~~ families ~~who are interested in applying may apply~~ for assistance.

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

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

When the Authority ~~decides to~~ determines to open a waiting list ~~the Authority~~ it will advertise through the posting of a Public Notice using the following ~~media sources; circulations, minority publications and media entities:~~

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

The notice will contain:

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- Date and time the waiting list(s) will open ~~and~~ (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;
- Methods 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 ~~the~~ 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 may stop accepting preapplications if it is determined that the~~ existing waiting list(s) contains 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 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-I.1. Applying for Assistance

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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 Authority will include HUD-FORM 92006 Supplemental To Application For Federally Assisted Housing as part of the preapplication.~~

The preapplication will contain at minimum, ~~least~~ the following information:

- Applicant name and address
- Social Security Number, and Date of Birth
- Family size
- ~~• Number of bedrooms the family qualifies for under Authority occupancy standards, for Project Based waiting list(s)~~
- 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 ~~(homeless)~~;
- 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 to its preapplication.

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

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

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Preapplications will not require an interview. The information on the preapplication will not be verified until the preapplications 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 ~~has is been~~ verified. ~~The p~~Preapplications are electronically sorted and placed on the waiting list in the following order:

- Preferences:
- Income (~~based on what the family reported~~): ~~by the applicant~~, and
- Time and date applied.

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Preapplications selected from the waiting list must meet the income limits selected under and meet ALL preferences claimed and to which the system selected them with at time the preapplication was pulled for the wait list.

Applicants who do not meet all ~~of the~~ preferences the system selected the preapplication under for and/or whose income exceeds the limit to which the preapplication was selected under, will be determined ineligible. The preapplication will be updated with the current information provided by the family and returned to the waiting list with the original date and time applied. The information will be updated to reflect the current income and the ineligible preference will be removed.

~~The head of household is required to sign the HUD FORM 92006 Supplement to Application for Federally Assisted Housing Form.~~

~~**2-I.J. Applicant Status While n Waiting List**~~ **Waiting List: Administration of the Waiting List [CFR 982.204]**

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Applicant Status:

An applicant does not have any right or entitlement to be listed on the Authority waiting list(s), to any particular position on the waiting list, or to admission to the programs. Except for special admissions, participants must be selected from the Authority's waiting List in accordance with admission policies in 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.

Admission Authority policy:

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The Authority must admits applicants for participation in accordance with HUD regulations and other (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.

Applicants are responsible to update their information within by logging into their online ~~preapplication- account by logging into the online portal account~~ as changes occur needed to access- update their preapplication.

The Authority may ~~to~~ contact applicants ~~about the status of their~~ waiting list preapplication via the email used for their -thru the online portal- account.

~~The Authority will make no more than two (2) attempts to contact applicant. Failure to respond after two (2) attempts or failure to provide requested information will be grounds to cancel the preapplication and remove the from the waiting list.~~

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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.

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~~**2-I.K. Wait list: Selection and Admission to Program [24 CFR 982.207]**~~

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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.

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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.

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At the discretion of the Authority, appointments may be scheduled electronically using a virtual method, by telephone, or in person.

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The Authority will notify the applicant of the scheduled date, time, and method of appointment(s), including any procedures for rescheduling and what documents must be provided for eligibility determination.

Failure to respond to the Authority or failure to provide requested information is grounds to cancel the family's preapplication and remove applicant from the waiting list.

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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

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~~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 be present to attend scheduled appointments, at the time of the initial appointment whether it be by virtual online meeting scheduled or an in-person interview. At the Authority discretion interviews and appointments may be conducted using virtual applications and electronic online programs.~~

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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.

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The Authority requires applicants and families to attend scheduled appointments. Failure to attend or be present for an appointment is grounds for denial of assistance or termination of continued assistance.

The purpose of face-to-face (whether virtual or in person) is to review information submitted by the family, request additional information needed to determine eligibility, and answer questions from the family.

**Persons with Disabilities:** Requests for alternate method of ~~intake appointment, interview or the need to reschedule~~ may be submitted to the Authority as a reasonable accommodation ~~by the disabled party~~ persons with a disability.

~~2-I.M. Denial or Termination of Assistance for family. Of Admission~~  
~~24 CFR 982.552 / 960.204~~

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(A) Action or inaction by family:

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The Authority may deny assistance for an applicant or terminate assistance for a participant under the programs because of the family's action or failure

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to act as request and provide required information to the Authority in determining eligibility.

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 procedures.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease.
- Terminating housing assistance payments under an outstanding HAP contract; and
- 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 refer to 24 CFR 982.553.

~~Authority to deny admission or terminate assistance/Grounds for denial or termination of assistance:~~

- 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, or

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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 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.

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(C) Authority to deny admission or terminate assistance:

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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:

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- 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 terminated assistance under the program for any member of the family;

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- 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 the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. (The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.);

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- If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation;

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- If the family has engaged in or threatened abusive or violent behavior toward PHA personnel;

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- If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program;

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- If the family has been engaged in criminal activity or alcohol abuse as described in § 982.553.

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(D) Consideration of circumstances:

In determining whether to deny or terminate 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 PHA'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.

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

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 every adult household member.

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 will utilize 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, is subject to a lifetime registered sex offender registration requirement in any state.

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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 and the applicant Head of Household with a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.

(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's suitability for tenancy.

The owner is responsible for screening and selection of 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 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 to provide prospective owners with 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 (providing the same information to all owners).

The Authority may not disclose confidential information provided by the family

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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 the information.

The Authority informs owners of their responsibility to screen prospective tenants, and upon request, will provide owners with information to contact previous owners of the proposed tenant, in addition to inspection related record(s). The Authority will not provide additional information such as tenancy or criminal history.

(G) Missed Appointments:

An applicant or participant who fails to keep a scheduled appointment, or fails to provide information required by a deadline without notifying the Authority, may be sent a Notice of Termination of Eligibility for assistance for failure to provide required information, failure to allow the Authority to inspect the unit, and violating the obligations of the family.

The family will be given information about the requirement to keep appointments and the number of times appointments may be rescheduled.

Required appointments will be scheduled reflecting date and time requirements that will be imposed for the following events and circumstances:

- 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 PHA Authority's decision concerning such action is subject to consideration by means of reasonable accommodation in accordance with part 8 of this title.

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2-I.N. — Failure to Respond or Provide

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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.

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The Authority will make ~~an no more than two (2) attempt(s) to make contact with~~ an applicant to schedule the ~~initial eligibility~~ interview before denying eligibility for failing to respond before cancelling the application from the waiting list.

Authority Policy:

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the Authority in advance of their inability to attend, may be sent a Notice Terminating Eligibility (NTE) 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.

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Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

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

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Acceptable reasons for missing appointments or failing to provide

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information by deadlines are:

- Medical emergency
- Any other emergency not including incarceration

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~~When an applicant misses two (2) appointments without contacting the Authority to try and reschedule, it will result in a denial of applicant assistance and the preapplication to be cancelled from the waiting list.~~

~~Correspondence may be conducted by telephone, email, virtual appointment or U.S. Postal mail.~~

~~Correspondence returned by the Post Office reflecting no forwarding address will result in the applicant being denied eligibility and cause for the preapplication to be cancelled from the waiting list.~~

~~The Authority will forward correspondence returned by the Post Office with a forwarding address by sending the information to the new address shown.~~

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~~The Authority will make no more than two (2) attempts to contact the family before canceling the preapplication.~~

**Persons with Disabilities:** Reasonable accommodations will be made for persons with a disability who ~~request~~ request ~~an advocate representative~~ to assist during the ~~intake process~~ eligibility process, ~~requires~~ requires ~~or who may require an alternate means of paperwork, or other accommodation accessible offices.~~ A person appointed by the family designee will be allowed to participate in the ~~interview~~ eligibility process ~~but only upon with consent permission of~~ by the person with a disability. ~~The Head of Household will need to complete the A signed HUD Form 92006 authorizing the advocate appointed person as someone who is permitted to speak on behalf of the family must be completed and will be placed in the file.~~

**-2-1.00. Required Forms Forms Required for Admissions:**

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All adult members listed in the household composition are required to sign documents reflective of "other adult signature" line, to be used in the determination of eligibility (both new and continuous):

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• **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 criminal conviction records

•

**Personal Declaration Packet and All Attached Forms:**

~~All adult member of the household composition listed in the full preapplication packet must sign where applicable.~~

Additional forms requiring ALL adult members of the household to sign:

- 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.

~~• All other supplemental forms required by the Authority~~

Applicants ~~will~~may be required to sign additional authorizations to release specific verification information ~~and/or verification forms~~ not covered by the HUD Form 9886. Failure to ~~to~~ comply will be causegrounds for denial of admission. ~~–~~

HUD and the Authority require each adult household member to sign ~~a~~s consent forms to release criminal background records ~~+~~ that allow the Authority to request records for use in determining eligibility in accordance with HUD regulations.

If the Authority determines at or after the interview that additional information or other documentation are needed, the Authority will request information be provided by due date. ~~–~~

The Authority provides a standard time frame to provide requested documents of ten (10) days. The Authority may make a second attempt not to exceed If additional time is needed, a request may be submitted to the Authority.

**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 982.201(e)]**~~

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[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

Information provided by the ~~applicant family~~ will be verified using the ~~verification pr~~cedures outlined in Chapter 7, "Verification Procedures" of this ~~A~~administrative ~~P~~plan. 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 theThe Authority for the purposes of determining initial eligibility ~~must receive information verifying that an applicant is eligible~~not be older than sixty (60) days from date requested.

Upon its review of information, within the period of sixty (60) days before the issuance of a voucher to a family.

~~If~~ the Authority determines ~~at or after the intake interview~~ that additional information or document(s) are needed, the ~~AUTHORITY~~Authority will ~~notify~~ instruct the family to ~~request provide such~~the document(s). The Authority's standard time for a family to respond to requests ~~will be ten~~is (10) days from the date ~~requested. shown on the notice.~~

Failure to provide requested information ~~required information~~ by the ~~due~~ ~~dated~~ ~~date due provided~~ is grounds to deny assistance. ~~or if~~ additional time is required, the family may ~~requested an extension to provide the information.~~ ~~Failure to provide the required~~ information in a timely manner may result in denial of assistance. ~~The Authority will make no more than two (2) attempts to contact a family before a denying assistance.~~

**2-I.Q. Final Determination and Notification of Eligibility**  
**[24 CFR 982.201]**

After the verification process is completed, the Authority will make a final determination of eligibility to confirm the family qualified for any special admissions, targeted funding admission, or selection preference and income limits that affect the order in which the family was selected from the wait list. ~~y. The decision will be based upon information provided by the family, the verifications completed by the Authority, and the current eligibility criteria and income limits a family is selected from. If the~~ ~~A~~ family is determined to be eligible will be notified by the "Authority and scheduled will contact the family to advise them of their final eligibility to the program. The family will be scheduled to attend the a required voucher briefing, a requirement prior ~~to receive at the~~ ~~voucher being issued.~~

If a family fails to qualify for any one criterion that affected the order in which

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it was selected from the waiting list, the family will be notified and their application returned to its original position on the waiting list. The Authority will notify the family of its determination and advise if the preapplication has been returned to the waiting list with the information (preference, income) updated to reflect current data verified during eligibility with any ineligible preference(s) remove. If the family was denied for any of the mandatory reasons the Authority must deny the family will be informed that the preapplication has been cancelled. Information is provided in the denial notice explaining how to request an informal review.

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.

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**Chapter 3**  
**ELIGIBILITY FOR ADMISSION**  
**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 a "family;"~~ ~~must~~ be income-eligible in accordance with the with paragraph (b) of this section income limitations selected for, must meet all preference criteria selected with, and and 24 CFR part 5, subpart F; and must be a citizen or a noncitizen who has eligible immigration status, ~~as determined in accordance with 24 CFR part 5, subpart E.~~ 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**

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The Authority accepts preapplications from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

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

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.

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

Information related to Denial of Admission are addressed in Chapter 15 Denial or Termination of Assistance in 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.

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At the request of the Authority, the family must submit required evidence of citizenship or eligible immigration status. (See Part 5 of this title for a statement of circumstances in which t

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 ~~hearing~~ review procedures.

(B) 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.C. 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.D. Family Composition [24 CFR 982.201(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,

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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:

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- 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.

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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:

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A family member included in the household composition of the initial eligibility full application 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

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Head of Household

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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

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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.

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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.

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

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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.

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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 request~~ required 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 ~~removed cancelled from~~ the current selected waitlist ~~for failure to provide documentation required by the Authority.~~

### 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. ~~It~~ 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—f. [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.

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- 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. ~~Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and in Chapter 1, of the "Reasonable Accommodations Policy" of this Administrative Plan.~~ Verification must include the number of hours ~~hours of the~~ care ~~will 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; ~~;~~

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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.

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

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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.E. Multiple Families in the Same Household~~

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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.F. Joint Custody of Children~~

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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 ~~make a determination~~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.G. 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~~ new 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.

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\_\_\_\_ If, however, a student in these circumstances is determined  
(b)

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.

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~~(b)~~(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.H. Definitions

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

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#### 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.

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#### 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:

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- 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;

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- 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.

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The Authority determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to

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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.

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### Institution of Higher Education

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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.

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### Parents

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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

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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

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### Veteran

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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.

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### Vulnerable Youth

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

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- 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

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state of legal residence;

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

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

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**3-1.1. Determining Student Eligibility**

~~If a~~ student ~~is~~ 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) ~~either~~ the student is independent from his/her parents; or the student's parents are income eligible for the ~~program~~;
  - and
  - (3) the "family" with which the student is applying is collectively eligible for the program.

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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

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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.EJ. Determining Parental Income Eligibility**

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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:

i. (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.

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ii. (B) If the student's parent is widowed or single, the Authority will obtain an income declaration and certification of income from that parent.

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(C) An income declaration and certification of income from each parent.

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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.

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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.FK. Income Eligibility and Targeting [24 CFR 982.201(b)]**

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~~(a) When an applicant is eligible to~~ The Authority may admit only eligible families to the program. To be eligible, an applicant must:

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- be a "family";
- must be income-eligible ~~in accordance with paragraph (b) of this section and 24 CFR part 5, subpart F;~~ 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 of Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

•

~~(1)~~ 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; ~~as defined in 248.101 of this title;~~

- 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.

~~(2)~~ 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

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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 248.165~~;~~
- 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.

### 3-1.L.6 Portability

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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.KM. — 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 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.N. — 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;

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- 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

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

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- 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).

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- Addition of new household member who is under the age of 6 and has no assigned SSN:

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- 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.

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

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- 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.

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

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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.

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**3-I.O. - 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 5.15]**

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 5.522] non-citizen students are not eligible for assistance.

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

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Verification of Status Before Admission

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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.

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**3-I.P. Denial of Admission** ~~f~~ [24 CFR 982.553]

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Denial of Admission:

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(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:-

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(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.

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- 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.Q. 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.R. 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

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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.

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**3-I.S. Criminal Background Checks**

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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**

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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**

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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.T. — Screening of Applicants**

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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.U. — 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.V. — 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

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requirements discussed elsewhere in this chapter.

**3-I.W. — 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.X. 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.Y. — 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:

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- 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.

**3-1.Z. — 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 warrants.

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.

**3-1.Aa. 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

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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.Ab. Tenant Screening [24 CFR 982.307]**

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

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- 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.

**3-1. Ac. Changes in Eligibility Prior to Effective Date of Contract**

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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.

**3-1. Ad. Ineligible Families**

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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

### ~~ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST~~ ~~HST Applications, Waiting Lists, and Tenant Selection~~ [24 CFR 982.204, 982.205, 982.206, 982.207]

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#### ~~OVERVIEW: Overview:~~

~~When the Authority opens a housing program waiting list, interested applicants must submit a preapplication to be placed on programs waiting list. When HCV assistance becomes available, the Authority must select families from the waiting list in accordance with HUD requirements and Authority Policies as stated in the administrative and annual plans.~~

~~HUD gives Housing Authorities discretion to adopt policies and procedures for accepting preapplications, placing families on a waiting list, selecting families from a list, and to follow these policies and procedures consistently.~~

~~An applicant 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 Authority that justify a selection.~~

It is the Authority's objective to ensure ~~that families applicants~~ are placed in the proper order on the waiting list(s) and that they are selected ~~from the waiting list~~ 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 ~~qualified~~ applicants who, once selected, may qualify to receive rental assistance. It is the Authority's duty ~~to perform activities which~~ ensure that program funds are used adequately and in a timely manner.

**CHAPTER 4**

**4-I.A. ~~Waiting List: Administration of Waiting List~~**

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

**4-I.1. ~~Waiting List: Administration~~ Administration of waiting list:**

- (A) ~~Admission from waiting list:~~ Except for special admissions, participants must be selected from the Authority's waiting list ~~and must be~~ 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;
  - Income

**(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 family's name from the waiting

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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]**

~~If the Authority waiting list for its public housing or project-based voucher programs are open when the applicant is placed on the HCV program waiting list, the Authority must offer to the applicant the option to be placed on these other waiting lists, if the other programs include units suitable for the family.~~

(A) If the Authority waiting list for tenant-based assistance is open when an applicant is placed on the waiting list for the low-income public housing (LIPH) program or other type of voucher program the Authority must offer to place ~~the applicant on its waiting list for tenant-based assistance.~~

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If the Authority waiting list for its Low-Income Public Housing (LIPH) program or Project-Based Voucher (PBV) program (site based housing) or moderate rehabilitation program is 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 offer to place the applicant on its waiting list for the other program.

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**(B) Other housing assistance: Effect of application for, receipt or refusal.**

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(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 housing program (including public housing), a state housing program, or a local housing program.

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

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(a) Refuse to list the applicant on the Authority waiting list for tenant-based assistance;

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(b) Deny any admission preference for which the applicant is currently qualified;

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(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

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(d) Remove the applicant from the waiting list.

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**4-I.D. Applicant Status While On Waiting List [24 CFR 982.202(c)]**

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

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Applicants are responsible to update their online preapplication periodically when any change occurs to their address, household composition, income, or preference criteria. Applicants are required to respond to notices received from the Authority.

~~The Authority is required to purge the wait list periodically and may contact applicants to confirm their update information n their preapplication, or to determine continued interest for program assistance.~~

Families who owe debt to the Authority, any Public Housing Agency (PHA) or other Federal Housing Program are eligible to apply to the wait list(s). Upon selection from a wait list, the Authority will determine any debts owed to the Authority after the initial eligibility interview. If the Authority determines that a family owes the Authority money, and the family has not established a payment agreement reflecting the account is in good standing. The family will be required to the debt balance in full ~~prior~~ to receiving a housing voucher or assistance.

If the Authority determines a family is ineligible for not meeting the income or preference criteria as shown on the pre-application, the family will be notified in writing of the reason(s), and the family will be provided the opportunity to request an informal review.

If requested, 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 as an accommodation.

#### **4-I.E. Purging the Waiting List [24 Cfr 982.204 (C)]**

The Authority is required to purge the wait list periodically and may contact applicants to confirm and update information in their preapplication, to confirm ~~their~~ continued interest for program assistance

The waiting list will be purged as applicable. At the Authority's discretion, applicants may be notified by U.S. mail or by e-mail to confirm an applicant is still interested in maintaining a position on the wait list. The request to applicants will ask for confirmation of their continued interest and remind the applicant to make any unreported changes.

Mailings to an applicant which require a response will state that failure to respond ~~within~~ by the deadline or within the time provided will result in the applicant's name being removed from the waiting list.

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

If the Authority sends a communication attempt by email and the email is rejected, the Authority will ~~make one (1)~~ attempt to contact the applicant by any one or more of the following methods:

- ~~U.S. Mail service~~;
- Email (through the email account used to register online); or
- Telephone.

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If the letter is returned by the Post Office without a forwarding address, the applicant will be removed from the waiting list without further notice with a copy of returned envelope and letter attached to the file. In the event correspondence is returned by the Post Office with a forwarding address the Authority will make ~~no more than one (1)~~ an attempt to contact the applicant by mail using the new forwarding address before the preapplication is removed from the waiting list.

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Applicants may log in to their online portal account or may contact the Authority periodically to check the status of the preapplication. The Authority provides a grace period of thirty (30) days after completion of a purge to request reinstatement of an application cancelled during the recent purge. Applicants who respond during this grace period will be given the opportunity to be reinstated.

**4-I.F. Grounds for Cancellation from the Waiting List**

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Failure to respond to communications from the Authority will be grounds to cancel the preapplication without the option for an informal review or reinstatement without the approval from the Director of Housing Programs or her/his designee.

Failure to attend a scheduled appointment or failure to update information that results in a form of communication sent by the Authority to be returned by the Post Office will be cause to ~~terminate~~ remove the preapplication

U.S. Mail or email correspondence requiring the applicant to respond by a specific deadline state that failure to respond by the deadline will result in the applicant's name being removed from the waiting list.

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**4.I.G. Establishment of Authority Local Preferences:**

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(A) The Authority may establish a system of local preferences for selection of families admitted to the 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 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;

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- 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.

(B) Particular local preferences -

(1) 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.

(2) Preference for person with disabilities.

- o The Authority may adopt a preference for admission of families that include a person with disabilities. However, the Authority

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may not adopt a preference for admission of persons with a specific disability.

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

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

(4) Preference for single persons who are elderly, displaced, homeless, or persons with disabilities.

o 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.

(C) 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.

(D) 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.

(E) 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.

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**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.

**1-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 and /or residents. Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area.

HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

**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.

~~In addition, preference and points will be given to families who apply for housing at the Midway Complex which is a Project Based and USDA Rural Development Site. Families must earn at least \$5,752.50 per year from agricultural employment and who meet at least one of the following definitions~~

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as per the California Code of Regulations (25 CCR 7202 (a)):-

**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.

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**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 Executive Director.

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~~HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.~~

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~~10 oints: Elderly or Disabled Person Preference: An elderly preference applies if the head, spouse or co-head are a person who is age 62 or older. A disabled person preference applies if the head, spouse or co-head receives Social Security or Supplemental Security benefits or otherwise meets the definition of disabled as defined under Section 223 of the Social Security Act.~~

**4-I.J. HCV Funding and Set Aside Vouchers:**

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Housing Choice Voucher (HCV):

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.

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**Homeless - Advancement from Transitional Housing Assistance**

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

(A) 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;

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(B) These transitional housing applications may be accepted even when the waiting list is closed.

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(C) An individual or family who lacks a fixed, regular and adequate nighttime residence meaning:

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- An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state or local government programs for low-income individuals).

(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.

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(E) A primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport or camping ground.

(F) Any individual or family who:

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- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; **and**

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- Has no other residence; **and**

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- Lacks the resources or support networks, e.g. family, friend, and faith-based or other social networks, to obtain other permanent housing.

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Independent Living Skills Program:

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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. ~~Must be referred by Human Services Agency.~~

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~~Human Service Agency~~ Adult Protective Services Program:

~~vouchers~~ The Authority may designate ~~10~~ vouchers, when funding permits ~~to~~ for elderly and dependent adults referred by Adult Protective Services who are experiencing abuse and/or neglect.

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**4-I.K. Special Admissions [24 CFR ~~982.54(d)~~, 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 aren't 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.~~

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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

**4-I.L. Emergency Housing Vouchers (EHV)**

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~~Emergency Housing Vouchers (EHVs) are issued under a non-waiting list admission and are to assist individuals and families who are experiencing homelessness; at risk of experiencing homelessness; fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.~~

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~~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)~~

**4-I.L. Initial Verification of Local Preference Qualification [24 CFR 982.207]**

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At the time of ~~application~~ preapplication, an applicant's selection of and placement for a local preference may be made on the following basis:

- An applicant's self-certification that they qualify for a preference they selected on their preapplication will be accepted without verification at

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

If the preference verification indicates that an applicant does not qualify for the preference they were selected by, the preapplication will be updated accordingly with the current information and returned to the waiting list without the local preference. An applicant who is denied eligibility will be provided the opportunity for an informal review if the calendar receives a request within 10 days of the denial of eligibility notice being sent to the applicant.-

Falsifying documents or providing false statements in order to qualify for any preference, will be grounds to cancel the preapplication and removal from the waiting list.

If, at the time the family applied to a waiting list with Special Program funds, and self-certified in the preapplication to meeting, the preference(s) ~~claim required, this being was~~ the only reason for placement of the family applicant on a specific wait list, when selected from the wait list for claiming to have such preference, and the family cannot ~~prove~~ verify their eligibility for the preference as of the date ~~of the preapplication is selected,~~ the Authority application will be ~~cancelled and the applicant and family will be removed them~~ from the waiting 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]

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If the Authority determines an applicant is ineligible due to not meeting the criteria definition of a preference, the Authority will notify the applicant in writing of its determination ~~as to why~~ the preference and why it was denied. ~~If the 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 ~~by submitting a written request for the review within ten (10) days of the date of the notice to deny. notification denying the preference.~~

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.M. Targeted Funding [24 CFR 982.203]**

When HUD awards special funding for certain family types, families who qualify are placed on the regular 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.

Applicants 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:

- Family 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
- A non-purchasing family residing in a HOPE 1 or HOPE 2 ~~project~~projects.

**4-I.N. Income Targeting Requirement**

In accordance with the Quality Housing and Work Responsibility Act (QHWRA) ~~of 1998~~, 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

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program and considered continuously assisted as provided for under the 1937 Housing Act.

The Authority is also exempt from this requirement where the Authority is providing assistance to 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 VASH referral applicant. Under the HUD VASH program, guidelines, income 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 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.

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**PREFERENCE AND INCOME TARGETING ELIGIBILITY**  
**[24 CFR 982.207]**

**4-I.O. 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.

**~~SEPARATE WAITING LISTS FOR HOUSING AUTHORITY PROGRAMS~~**

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

**4-I.P. Project-Based Voucher Units Designated Elderly/Disabled Families**

Project-Based (site-base voucher) units 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 in 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.

~~In selecting elderly or disabled families to fill these units, the Authority "AUTHORITY" must also apply any preferences established in this Administrative Plan. The Authority "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~~

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~~senior Project-Based Voucher development, the Authority "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 fifty to sixty-one (50-61) years old. When there are insufficient elderly families on the waiting list who wish to reside in a Project-Based Voucher Program development designated as a senior complex, near-elderly families will be selected.~~

**4-I.Q Other Housing Assistance [24 CFR 982.205(B)]**

Other housing assistance is defined as a Federal, ~~S~~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.

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**4-I.R. Selection from the Waiting List [24 CFR 982.207(c)]**

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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.

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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.

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Authority Policy:

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

**Method of Selection [24 CFR 982.202(d) and 982.207 (c)]**

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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.

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## CHAPTER 5

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

[24 CFR 982.505(C)(4)], [24 CFR 982.505],

[24 CFR 982.402517(d)]

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#### 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 number of bedrooms for each family at initial lease up, 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**

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**5-I.A. Determining Family Unit Size [24 CFR 982.402]**

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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:

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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. ~~(CFR 982.401(d)).~~
- (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) ~~Unless a~~ live-in aid must resides 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 in voucher program:

(1) The ~~family~~ 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:
  - o For a voucher tenancy, the Authority establishes payment standards by bedroom size by number of bedrooms.

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 ~~occupied and Approved Voucher unit size~~ by family:

- (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 older.

(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.

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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.

~~When determining a family's voucher size, the Authority will consider several factors~~

- ~~• Family characteristics including sex, age, or relationship;~~
- ~~• Persons of different generations may not be required to share a bedroom. Consideration will also be given for medical reasons~~

~~Presence of a live-in aide. As a reasonable accommodation for a person with a disability, by request, the Authority may approve an additional bedroom for medical equipment if the need is documented by a health care provider. 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 Authority must reduce the voucher size and corresponding payment standard at the family's next annual recertification.~~ The Authority assigns up to two (2) persons per bedroom one bedroom to two people 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) if any) and one (1) additional bedroom for every two persons; regardless of age.
- 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.

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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 larger~~ a change in the voucher unit size ~~and voucher~~ than that which is indicated by the Authority's subsidy standards.

The request ~~must~~ 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.

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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 be verified verified 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. (by i.e., a doctor, medical, or social service professional).

When the Authority receives verification approving approves an additional bedroom for medical equipment, the Authority may 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 shall 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 it is determined that~~ the Authority determines an error was made and issued applied the family thean incorrect subsidy standard when determining the family's voucher unit size, subsidy standard at the time of voucher issuance, the Authority will notifyinform the family of the error and the family may be issued a new apply the correct subsidy standard for the voucher of the appropriate unit size so that the family is not penalized.

5-I.D. Changes in Voucher Unit Size s or

Changes to Unit Size on Voucher- Applicant:

The voucher unit size is determined prior to the briefing by comparing reviewing the family's household composition (age, generational factors, and gender are considered) to the to the Authority 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 will apply.

Changes to Unit Size on Voucher- for Participants:

The mMembers of the family residing in the unit must have prior approval

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~~by~~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~~any additional family member ~~before~~ prior to the new member ~~the person living in occupies the~~ 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 may approve~~will consider approving ~~additional family 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:~~ ~~(For a~~When addition is a spouse, ~~the Authority may require proof of~~ a Marriage License ~~must~~ be provided ~~at the time of request~~ prior to approving such request.);
- ~~Minor children of the~~ 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 ~~any-an~~ added member(s) to the household would create over-crowding, and exceed the ~~occupancy /~~ subsidy standards ~~located in this chapter as shown in this chapter,~~ the Authority may deny the addition (when applicable) ~~or inform the~~ 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~~ the family ~~unit~~ 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). and must issue the family a new voucher of the appropriate size.~~

#### Over-Housed Families:

The family may lease an otherwise acceptable dwelling unit with more

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bedrooms than the number issued on the voucher in accordance with the family unit sizes 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, ~~for~~ the utility allowance the Authority must apply applied 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. (See 982.517(d)).

If a participant has a decrease in ~~the~~ 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 ~~renting 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 ~~chooses wishes~~ to move, a new voucher will be issued for the correct subsidy standard, based on current household composition or need.

~~The total tenant payment (TTP) is the portion amount the family is responsible to pay for rent.~~

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~~The tenant portion of rent and the current utility allowance cannot exceed 40% of their adjusted income at the time of initial lease up (24 CFR 982.508). The approved rent will be based on the payment standard for the number of bedrooms the family is eligible for or the actual number of bedrooms in the unit, whichever is less. In cases where the gross rent is less than the payment standard, it will be used as the payment standard.~~

**5-I.F. Applying Payment Standards-Amounts And Schedule [24 CFR 982.402(c) [24CFR 982.503(b)-505]**

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

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The family's approved unit size as determined ~~for a family under~~ by the

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Authority's subsidy standards ~~is 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 ~~or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).~~

(B) 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.

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**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 for the cost 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 rates.~~

(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~~

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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.

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(C) Use of Utility Allowance Schedule Revisions of Utility Allowance Schedules:-

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(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.

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(D) Use of Utility Allowance Schedule:

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(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).

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

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(i) 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)]**

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

### **5-1.1. 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, ~~as shown in the table below.~~ These levels may be exceeded if a room, in addition to bedrooms and living room, ~~when the room i~~ ares 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.

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### **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	<del>5</del> <u>6</u>	12
6 Bedrooms	<del>6</del> <u>8</u>	14

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## Chapter 6

### ~~HOUSEHOLD COMPOSITION, INCOME AND ALLOWANCES INCOME, ALLOWANCES, AND SUBSIDY DETERMINATIONS~~

~~24 CFR Part 5, Subparts E and F;~~

~~24 CFR 982.505 and 24 CFR 5.625~~

#### OVERVIEW

~~The following chapter~~In this chapter, the Authority ~~describes program 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) ~~is~~ includes, but is not limited to the age and status of each household member composition, certain familial relationships, dependents and dependent allowances, income exclusions, adjusted income, excluded income, student status, Earned Income Disallowance (EID), assets, and hardships and determining the amount of subsidy the Authority will pay.

~~Throughout this chapter and this Administrative Plan, reference to HUD waivers are included with relation to PIH Notice 2020-05 and PIH 2020-13 Covid-19 Statutory and Regulatory Waivers and Alternative Requirements for the Housing Choice Voucher program.~~

The Authority uses the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at continued occupancy recertification 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.



**PART I**  
**DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**  
**DEPENDENTS AND ALLOWANCES**  
**INCOME, ALLOWANCES, AND SUBSIDY DETERMINATIONS**  
**CHAPTER 6**

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**OVERVIEW:**

~~Some e~~Eligibility and program criteria ~~and program~~ rules may vary depending upon the composition of the family requesting assistance. ~~In addition, s~~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, This part provides~~ information that is needed to correctly identify family composition and household members, and ~~to~~ 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.

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**6-I.A. Family And Household Composition and Income**  
**24 CFR 982.201(e)**

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.

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**6-I.B. Definitions of Household Members**

Head Of Household" ~~24 CFR 5.504(B)~~

(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.

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

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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 ~~J24 CFR 5.6031~~

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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.

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Joint Custody of Dependents

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(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.

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(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).

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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).

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(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.

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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.

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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**  
~~FAMILY 24 CFR 5.100 and 5.403~~

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Elderly Persons:

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

Near-Elderly Persons:

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

Elderly Family:

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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.

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

**6-I.D. Persons With Disabilities And Disabled Family**  
**24 CFR 5.403.**

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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.

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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.

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~~A disabled family member is important because these families~~  
qualifies for the disabled family allowance.

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~~Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the Authority from denying assistance for reasons related to alcohol and drug abuse.~~

**6-I.E. GUESTS** **24 CFR 5.100**

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

The Authority ~~to~~ defines an "unauthorized household member" as:

- Any adult not listed in included on 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) ~~not consecutive days~~, will be considered to be living in the unit as an unauthorized household member.

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Authority Policy

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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**

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

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Foster Adults: Persons with disabilities, unrelated to the tenant family, who are unable to live alone ~~[24 CFR 5.609]~~.

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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 ~~[24 CFR 5.403]~~.

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

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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,

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ii. Foster children and foster adults are never considered dependents.

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Live-In Aides:

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(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

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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.  
~~An interim reexamination will always be conducted for any additions or deletions of family members.~~

The Authority will not ~~issue~~ increase the voucher to a larger ~~voucher unit~~ size due to additions to the household except when applicable to the addition of a family member ~~by other than 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.

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#### **6-I. Family Breakup and Remaining Tenant**

##### **Family Breakup 24 CFR 982.315**

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 housing assistance.

~~For HUD Veterans Affairs Supportive Housing (HUD VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD VASH voucher, the victim should be given a regular tenant base voucher.~~

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#### **6-I.K. 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.

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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.

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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.

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

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- 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.

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**6-I.K. Absence from the Unit [24 CFR 982.312]**

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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.

~~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 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, 2021.** HUD is allowing the PHA at its discretion to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members). Period of Availability: The period of availability for the PHA to choose to continue making HAP payments despite the family's absence of more than 180 consecutive days ends on December 31, 2020. The PHA may not make payments beyond December 31, 2020, and the HAP contract will terminate on that date if the family is still absent from the unit.~~

**6-I.L. Absence From The Unit: Other Reasons**

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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.

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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 :24-5-403

- 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:

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- 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.

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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.

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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.

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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.

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

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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.

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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.

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#### Minor Coming into Home:

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- 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:

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- 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:

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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: ~~24 CFR 5.403~~

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

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see this chapter for the policy on “Caretaker of Child.

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

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**6-I.M. Family Income and Total Tenant Payment (TTP): [24 CFR 5.609]**

**(A) Overview:**

~~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, 2020. HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third party income verification requirements for annual reexaminations, including the use of EIV.~~

**6-III.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.

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~~6-(B) III-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 [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 [24 CFR 5.233(a)(2)].

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

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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.

~~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 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, 2020.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;~~

~~The income verification waivers extend only to annual and interim recertifications. HUD has not provided guidance or any statutory waiver for initial eligibility verification due to the stringent requirement that a family must meet the criteria selected for and be under the targeted income limit.~~

#### ~~6.HI.G~~ Earned Income:

~~Income means all amounts, monetary or not, which:~~

- ~~1.~~ (a) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- ~~2.~~ (b) Are anticipated to be received from a source outside the family during the 12-month period following admission or 1 reexamination effective date; and
- ~~3.~~ (c) Which are not specifically excluded in sections "Excludable Income" and "Federally mandated Income Exclusions" located later in this section;

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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.

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- 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;

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- 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).

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- 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.

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#### Averaging Income:

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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 ~~(24 CFR 5.609(d))~~

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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
- 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.

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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 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.

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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

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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.

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**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.

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**6-I.P. Contributions to Retirement Funds – Assets:**

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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.

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**6-I.Q. Assets Disposed Of For Less Than Fair Market Value**

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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:**

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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]**

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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:

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#### 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]

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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.

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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.

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6-I.T. Medicare Drug Prescription Program (Part D):

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(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:

The Authority will require a family to obtain verification on a “service” animal 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 the family to obtain 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. ~~Such documentation is sufficient if it establishes that an individual has a disability and that the~~

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~~animal in question will provide some type of disability-related assistance or emotional support.~~

• 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

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• 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

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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 which will be allowed.

Medicare prescription drug coverage:

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• 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:

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• Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs.

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• 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 (if not, the Authority will need to do a third-party verification).

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• Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction.

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- 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.

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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]**

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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:

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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**

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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.

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However, 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 :

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Is 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**

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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.

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

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

**6-I.X. Utility Allowance And Utility Reimbursement -Payments**

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-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. 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 our jurisdiction. The air conditioning allowance will only be granted to families in the area when the Authority has confirmed that the unit actually has an air conditioner in the unit.

The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the actual voucher size issued to the family.

When the calculation on the HUD 50058 form results in a utility reimbursement payment due to the family, the Authority may make a utility reimbursement payment directly to the gas and electric company that provides services to the family's assisted unit. The check will be made out directly to the gas and electric company.

**6-I.Y. Excludable Income [24 CFR 5.609 (c)]**

Annual income does not include the following and is not 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);

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- 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:

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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:

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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 of certificate program.

Income of a Live-In Aide:

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Income earned by a live-in aide, as defined in [24 CFRR 5.403], is not included in annual income (see Eligibility chapter for further information on live-in aides.

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Income Earned under Certain Federal Programs [24 CFR 5.609(c) (17)]

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Income from some federal programs is specifically excluded from consideration as income, including:

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- 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

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**6-I.Z. Annualization of Income**

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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]:

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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:

- A. **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.
- B. **Elderly/Disabled Allowance**: \$400 per family for families whose head or spouse is 62 or over or disabled.
- C. **Allowable Medical Expenses**: Deducted for all family members of an eligible elderly/disabled family.
- D. **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.
- E. **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]**

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Determining total tenant payment (TTP):

Total tenant payment is the highest of the following amounts, rounded to the nearest dollar.

- (1) 30 percent of the family's monthly adjusted income;
- (2) 10 percent of the family's monthly income;



- (3) 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
- (4) The minimum rent, as determined in accordance with 5.630

Minimum Rent [24 CFR 5.630]:

▲ "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. ◆

- (1) 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.
- (2) 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.
- (3) 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, as described in the Authority's written practice.

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;

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- When a death has occurred in the family; and
- Other circumstances determined by the Authority or HUD.

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When a family requests a hardship exemption:

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i. All section 8 programs:

- (A) 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.
- (B) The Authority must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.
- (C) 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.

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ii. All Programs:

- (A) 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.

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Hardship Requests for an Exception to Minimum Rent [24 CFR 5.630]:

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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. ~~[24 CFR 5.630]~~

Criteria for Hardship Exception:

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

- The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance, including a family with a member who is a 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.

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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.

- (A) 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.
- (B) The Authority must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.
- (C) 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:

- (A) 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.

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.

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“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.

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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

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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))

(1) 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.

(1)

(2) 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.

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(3) 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.

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Documents older than 60 days from the Authority interview/determination or record date are acceptable for confirming dates of income.

~~##.i.~~ The Authority will obtain written and oral third-party verification in accordance with the verifications policy in Chapter 7 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.

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~~###.ii.~~ 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., 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

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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:  
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:

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- 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.

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.~~

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~~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 Repayment 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.~~

### **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.~~

### 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.

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~~6-I.Ad. Assets Disposed Of For Less Than Fair Market Value 24 CFR 5.609(b)(4)(3)~~

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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-III.H 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.~~

~~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-III.H 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-III.I MEDICARE DRUG PRESCRIPTION PROGRAM (Part D)**~~

~~**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.~~

~~The Authority will require a family to obtain verification on a "service" animal that:~~

~~In addition, the Authority will require the family to obtain 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. 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.~~

~~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

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

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 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 (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.

### **6.III.J PRORATION 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**

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~~— 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.III.K 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.~~

~~— However, 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 is 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.III.L 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.~~

~~The welfare agency, at the request of the Authority, will inform the Authority of:~~

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

### **~~6.II UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS 24 CFR 982.513, 982.517~~**

~~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. 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 our jurisdiction. The air conditioning allowance will only be granted to families in the area when the Authority has confirmed that the unit actually has an air conditioner in the unit.~~

~~The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the actual voucher size issued to the family.~~

~~When the calculation on the HUD 50058 form results in a utility reimbursement payment due to the family, the Authority may make a utility reimbursement~~



payment directly to the gas and electric company that provides services to the family's assisted unit. The check will be made out directly to the gas and electric company.

## 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.

~~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, 2021.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;~~

~~The income verification waivers extend only to annual and interim recertifications. HUD has not provided guidance or any statutory waiver for initial eligibility verification due to the stringent requirement that a family~~

~~must meet the criteria selected for and be under the targeted income limit.~~

**PART I**

**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.

~~An explanation of waivers adopted by the Authority PIH 2020-05 and PIH 23020-13 under the CARES Act and COVID-19 is available and described at the end of this chapter.~~

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**7-I.B Methods Of Verification**

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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</b> (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
4	<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)
3	<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)
2	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification)

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**Note:** This verification hierarchy applies to income determinations for applicants and participants. ~~However,~~ EIV is not available for verifying initial income of applicants.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH 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 PHH 2020-05 and restated in this PHH 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, 2021.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PHH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV,~~

**7.1.C. Enterprise Income Verification (EIV) – [24 CFR 50233(a)-(2)]**

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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;7
- If the family disputes the accuracy of the EIV employer data;7 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

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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

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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:

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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.

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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.

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Non-Third-Party Verification Technique:

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Tenant Declaration (Level 1)

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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:

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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:

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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:

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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.).

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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; and
- The Authority will request from the third-party source, any information necessary to resolve the income discrepancy; and
- 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**

**Verification of Legal Identity**

The Authority will require families to furnish verification of legal identity for each household member.

**~~7-II.A. VERIFICATION OF LEGAL IDENTITY~~**

The Authority will require families to furnish verification of legal identity for each household member.

<u>Verification of Legal Identity for Adults</u>	<u>Verification of Legal Identity for Children</u>
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current employer identification card	

~~If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required~~

If 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.

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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.

~~Note that a~~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.

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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]

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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 5.234]**

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.

~~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~~

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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, 2021.~~ HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;

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As outlined in PIH Notices 2020-05 and 2020-13 requirements to use the income verification hierarchy as described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for interim reexaminations, including the required use of EIV

PHA that implement this waiver will be responsible for addressing material income discrepancies that may arise later. The period of availability for waiver is extended to December 31, 2020.

An explanation of waivers adopted by the Authority PIH 2020-05 and PIH 2020-13 under the CARES Act and COVID-19 is available and described at the end of this chapter.

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The income verification waivers extend only to annual and interim recertifications. HUD has not provided guidance or any statutory waiver for initial eligibility verification due to the stringent requirement that a family must meet the criteria selected for and be under the targeted income limit.

PHAs are required to keep written documentation that record which waivers the PHA applied to their programs(s) and the effective dates.

#### 7-I.H. Items To Be Verified [24 CFR 982.516]

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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 complete 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.

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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.)

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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.

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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.

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Welfare (TANF) Payments or General Assistance:

Acceptable methods of verification may include, in this order:

1. Authority verification form completed by payment provider;
2. 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;
3. Computer-generated Passport to Services printout and/or Notice of Action.

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Alimony or Child Support Payments:

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Acceptable methods of verification may include, in this order:

1. Authority verification form completed by payment provider;
2. Printout of recent payment history from the issuing agency;
3. Oral verification from the District Attorney's Child Support Division;
4. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules;
5. 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:

1. Authority verification form completed by parent provider or person paying the support;
2. Welfare notices of action showing amounts received by the welfare agency for child support;
3. A written statement from an attorney certifying that a collection or enforcement action has been filed;
4. An affidavit from the family indicating the amount(s) received;
5. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

Net Income from a Business:

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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.

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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:

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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

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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

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▲ 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:

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

**7-I.J. Income From Assets [24 CFR 982.516]**

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**Checking/Savings Account Interest Income and Dividends:**

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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.

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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.

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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.

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**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.

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Medical Expenses and Disability Assistance Expenses:

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In order 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 months.
- 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:

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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 payment 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]**

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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:**

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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:**

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- 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):

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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

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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 of 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.

Aggressively pursue termination of rental assistance, or deny initial eligibility, as appropriate, for **tenant's** 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:

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- 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:

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Verification of Relationship:

- Official identification showing names
- Birth certificates
- Baptismal certificates

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Verification of Guardianship:

- Court-ordered assignment
- Verification from social services agency
- School records
- Affidavit of parent

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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

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Verification from social services agency and/or school records

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Verification of Permanent Absence of Family Member:

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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:

1. Husband or wife institutes divorce or legal separation. Appropriate documentation from the court is required.
2. Order of protection/restraining order obtained by one family member against another.

3. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
4. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
5. If no other proof can be provided, the Authority will accept a self-certification from the family.
6. If the adult family member is incarcerated, a document from the court or correctional facility should be obtained stating how long they will be incarcerated.
7. If no other proof can be provided, the 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.

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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.

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**7-I.O. Verification of Waiting List Preferences [24 CFR 982.207]**

Local Preferences as determined by the Authority:

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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.

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Displacement by HUD disposition of a project:

- Written verification from HUD.

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Determination of Standard Replacement Housing:

- Inspection by an Authority inspector and/or certification by landlord.

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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.

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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

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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.

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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. ~~or 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 Social Security disability benefits or may be completed ion of by the Authority using a third-party written verification of s-disability verification form.~~

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The Authority will not inquire as to the nature of ~~the a~~ disability ~~as defined in this Administrative Plan. The Authority will 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,

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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.

1. 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.

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The Privacy Act and other requirements for grants and contracts is spelled out in 24 C.F.R. 5.212 which states:

1. 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.

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2. 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.

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3) 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:

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*(a) The Contractor agrees to—*  
*(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act ;*

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Definitions

As used in this Notice, the following terms are defined as:

1. 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."

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2. 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.

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Guidance on Protecting Sensitive Privacy Information

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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.

a) Contractors and third-party business partners should take the following steps to help ensure compliance with federal requirements:

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j) Security Awareness and Privacy Training :

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1. 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.

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• Integrity - Assuring the reliability and accuracy of information and IT resources by guarding against unauthorized information modification or destruction.

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• 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.

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• Threat- A threat in the case of IT security is the potential to cause unauthorized disclosure, unavailability, changes, or destruction of protected information.

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• Vulnerability- Any flaw or weakness that can be exploited and could result in a breach or a violation of a system's security policy.

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• Risk is the likelihood that a threat will exploit vulnerability.

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• Controls are policies, procedures, and practices designed to decrease the likelihood, manage the impact, or minimize the effect of a threat exploiting a vulnerability.

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2. 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.

2-3. 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.

ii) Limit Collection of PII

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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.

iii) 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.

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iv) 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.

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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.

2. 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.

y) 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.

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**7-I.Q. Protecting Hard Copy Transmissions of Files Containing Sensitive PII**

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1. 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.
2. Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.
3. 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**

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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**

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- 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 their 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.

~~Pursuant to PHI Notice 2020-05 issued on April 10, 2020 and PHI Notice 2020-~~

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~~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, 2021.**~~

**PART I**

**8-I.A. Issuance Of Vouchers [24 CFR 982.204(d), 982.54(d) (2)]**

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. The briefings will be conducted in groups and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to their selected Eligibility Specialist. Briefings will be conducted in English.

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

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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.

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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 must include information and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The Authority also includes other information and/or materials which are not required by HUD.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the 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 Notice 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, 2021.~~

HUD is allowing the PHA Authority to conduct the briefing by ~~other 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 PHAs the Authority to ensure effective communication with applicants, participants and members of the public in all communications and notices. The PHA Authority must ensure that the method of communication for the briefing effectively communicates with, 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 When A Family Is Selected [24 CFR 982.301(b)]**

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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)]**

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When a family is ~~selected has been -determined eligible~~ to participate in the program, the Authority ~~must- is required to schedule give the family~~ 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, -and 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- ~~The Authority may also include~~ other information and/or materials not required by HUD.s

The briefing informational packet contains the following information:

- ~~A completed~~ The HUD Voucher and Tenancy Addendum to be signed by the family, with attached Tenancy Addendum (that to be made part of the lease) must be included in the lease). ~~The Tenancy Addendum outlines~~ outlining the terms of the voucher and tenant / landlord responsibilities as defined by HUD.
  - o The term of the voucher;
  - o voucher suspensions; and
  - o the Authority policy on Information on requesting extensions; and
- How the program works;
- Family and owner responsibilities;
- Information about ~~W~~ where the family may lease a unit, including renting a dwelling unit inside or outside the Authority's jurisdiction, and ~~any~~ information on selecting a unit that HUD provides;

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- ~~Explains what the~~ Request for Tenancy Approval (RFTA) form is and how to complete the form. This form is the document that the family uses to request PHA approval of a unit to be leased, the assisted tenancy. ~~(An explanation of how to request approval is outlined in the handout).~~
- ~~A statement of the Authority policy on providing information about a family to prospective owners;~~
- Authority subsidy standards, including when the Authority will consider granting exceptions to the standards;
- Materials (e.g., brochures) on how to select a unit; ~~and any additional information on selecting a unit handout).~~
- ~~Information on f~~Federal, ~~S~~State and local equal opportunity laws;
- ~~a copy of the~~ housing discrimination complaint form and what to do if you feel discriminated against;
- ~~Information~~ A list of landlords known to the Authority to search for a rental unit who may be willing to lease a unit to a family or other resource (e.g. (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 Notice that if a family includes a disabled person, list of units known to the Authority for persons with disabilities and locations with accessible units; he family may request a current listing of accessible units known to the Authority that may be available.~~
- 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); an explanation of portability.
- ~~The HUD required tenancy addendum, which must be included in the lease.~~
- ~~The Request for Tenancy Approval form, and a description of the procedure for requesting approval for a unit.~~
- ~~Auth~~Authority privacy notice on what providing information the Authority can provide about families to prospective owners;
- ~~The Current~~ Subsidy Standards; ~~when and how exceptions are made.~~
- 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;~~
- ~~including form for~~ Disclosure of Lead Based Paint (to be signed by owner and Housing Choice Voucher participant);
- ~~Information on federal, State and local equal opportunity laws~~

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- including:
- ~~the pamphlet~~ "Fair Housing: It's Your Right" booklet and other information about fair housing laws and guidelines (with local contact information);
  - ~~the form~~ for reporting suspected discrimination;
  - ~~and the phone number of the local fair housing agency.~~
  - ~~A unit listing of landlords interested to lease to assisted families or help in the search and known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find information about leasing and units outside areas of poverty or minority concentration.~~
  - ~~:~~

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- Available accessible units known to the Authority will be identified on the unit listing form.
- The Family Obligations and Owner responsibilities under the program.
- Information about reporting changes to the household; at Sheet on Reporting Changes in Family Income/Composition and
- Policy on Missed Appointments;
- The grounds on which the Authority may terminate assistance for a participant family because of family action or failure to act.
- Sample of a HUD HAP contract.
- Any Supplemental material the Housing Choice Voucher Department may deem necessary, such as:
  - o HUD HQS Inspection information (FAQ); Form/Initial
  - o Information packet including an explanation of about how portability works and a including a list of neighboring housing agencies with contact available contact information; the name, address and telephone number of a portability contact person at each for use by families who may move under portability.
- Expanding Housing Opportunities, includes:
  - o Maps of Poverty and Minority Areas (Low Poverty and Low Minority Areas), as well as Housing Choice Voucher Impacted Areas
  - o Information about area includes schools, businesses – employment and resource guide any outreach programs.
  - o Transportation information; Bus routes
- HUD Form 903-1 HUD Form – “Are You a Victim of Housing Discrimination?”
- How to serve notice to vacate; Intent to Vacate Notice
- Authority Informal Hearing requests and procedures including when the Authority is required to offer an applicant or participant family the opportunity for an informal hearing; and how to request the hearing.
- Family Self-Sufficiency Brochure
- Authority's sample lease for owners who do not use their own lease for their tenants.

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

During the briefing, the person Authority conducting the briefing will also 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.

The briefing presentation emphasizes:

- Family and owner responsibilities

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- ~~Where a family may lease a unit inside and outside its jurisdiction~~
- ~~How portability works for families eligible to exercise portability~~
- ~~Advantages to moving to area with low concentration of poor families if family is living in a high poverty census tract in the Authority's jurisdiction~~
- ~~Choosing a unit carefully and only after due consideration.~~

- ~~Procedures for notifying the Authority of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.~~
- ~~The family's rights as a tenant and a program participant~~
- Requirements for reporting changes between annual recertification.
- Advantages of Family Self-Sufficiency Program.

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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 a 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., and who have been recertified within the last one hundred twenty (120) days, and have given no

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Continuously assisted families must serve the landlord with ~~tie of an~~ intent to vacate ~~to their landlord~~ 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.

~~This briefing may include incoming portable families.~~

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#### Owner Briefing:

Owners may attend a scheduled ~~B~~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. ~~s are held for owners as needed.~~ Prospective owners are also welcome at the tenant briefing. The purpose of ~~the~~all briefings~~g~~ is to assure successful owner and tenant

Housing Authority of the County of Merced  
Voucher Issuance & Briefings

FY 22/23



participation in the program.

~~The Authority will cover. The briefing covers~~ the responsibilities and roles of the three parties (Authority, Owner, and Tenant).-

**8-I.GE. Encouraging Participation and Deconcentration In Areas Without Low Income Or Minority Concentration**

~~At the briefing, The Authority encourages~~ families ~~are encouraged~~ to search for housing in non-impacted areas ~~and the Authority will provide assistance to families who wish to do so of~~ deconcentration.-

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

~~The~~ Authority will ~~investigate a~~review and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

~~The a~~ Assistance provided to participants such families includes:

- Providing families with a search record form to gather and record information;
- ~~Information to Direct~~ contact with landlords;
- ~~Counseling Counseling by request~~ with the family;
- Providing information about services in various non-impacted areas;
- Formal or informal discussions with landlords; ~~groups~~
- Formal or informal discussions with social service agencies;
- Meeting with rental ~~referral~~ companies or agencies;
- Meeting with Fair Housing ~~groups or~~ agencies;

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**8-I.FD. 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.GE. Security Deposit Requirements [24 CFR 982.313]**

The owner is not required to but may collect a security deposit from the tenant. Security deposits charged by owners may not exceed those charged to unassisted tenants (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.HF. Term Of Voucher [24 CFR 982.303]**

~~During~~At the ~~close of the~~ briefing session, ~~families attending under the HCV program each household~~ will ~~receive~~ ~~be issued~~ 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. ~~Unless~~Extensions that will exceed a total of 120 days must be approved ~~approved~~ by the Director of Housing Programs or their designee. ~~Except under extraordinary circumstances,~~ no more than two (2) thirty (30) day ~~extensions (s-or less)~~ shall be ~~will be~~ granted and never for a total of more than ~~one hundred twenty (120)~~ days.

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~~As a if as a reas~~reasonable accommodation for a person with disabilities (or under extraordinary circumstances ), the fami requests for an extension ty needs an extension in excess of ~~one hundred twenty (120)~~120 days, the Authority will be reviewed ~~such request~~ on a case by case basis.

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A family must submit a written request for an extension of the voucher time period ~~prior to the expiration date shown on the voucher. d. All requests for extensions must be received prior to the expiration date of 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:

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

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. ~~The family will need to reapply to the program.~~

If the family is currently assisted, and remaining in the current assisted unit (no longer vacating) ~~they may remain as a participant in their unit if there is an assisted lease/contract in effect before when the 60-day voucher period expires, the family may remain in place and assisted. The family will need to serve a vacate notice to move in the future. has expired.~~

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 will be~~ suspended (the clock on the family's voucher is stopped) upon receipt of the from the date a ReqRequest for Tenancy Approval (RFTA) is received and remains on hold until the Authority approves or denies the RFTA submitted request. The Authority may grant a family a suspension of the voucher term if the family has submitted a RFTA request for approval of the tenancy during the during the term of the voucher.

In the event the RFTA is disapproved or cancelled, the family is entitled to the any 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).

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Waiver HCV-3: Term of Voucher – Extensions of Term

The regulation requires when the PHA selects a family to participate in either the HCV or PBV program, the PHA must give the family an oral briefing. HUD is waiving this requirement and as an alternative requirement allowing the PHA to conduct the briefing by other means such as a webcast, video call, or expanded information packet. Section 504 and the ADA require PHAs to ensure effective communication with applicants, participants and members of the public in all communications and notices. The PHA must ensure that the method of communication for the briefing effectively communicates with, and allows for equal participation of, each

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~~family member, including those with vision, hearing, and other communication-related disabilities, and ensures meaningful access for persons with limited English proficiency. HUD is waiving the requirement that the extension(s) must be accordance with the PHA's administrative plan in order to allow the PHA to provide extensions.~~

#### 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 ~~our office or the agency website at: www.merced-pha.com via the AffordableHousing.comGoSection8\_tab.~~ [www.merced-pha.com](http://www.merced-pha.com) via the [AffordableHousing.comGoSection8\\_tab](http://AffordableHousing.comGoSection8_tab).

The Authority will assist families ~~with to negotiate~~ negotiate rents with owners and provide other assistance related to the families' search for housing.

~~After the first sixty (60) days of the search, the Authority may require the family to provide a search record.~~

#### **8-I.1-G. Voucher Issuance Determination Ffor Split Households f24 Gfr 982.3151**

In ~~those~~ 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 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

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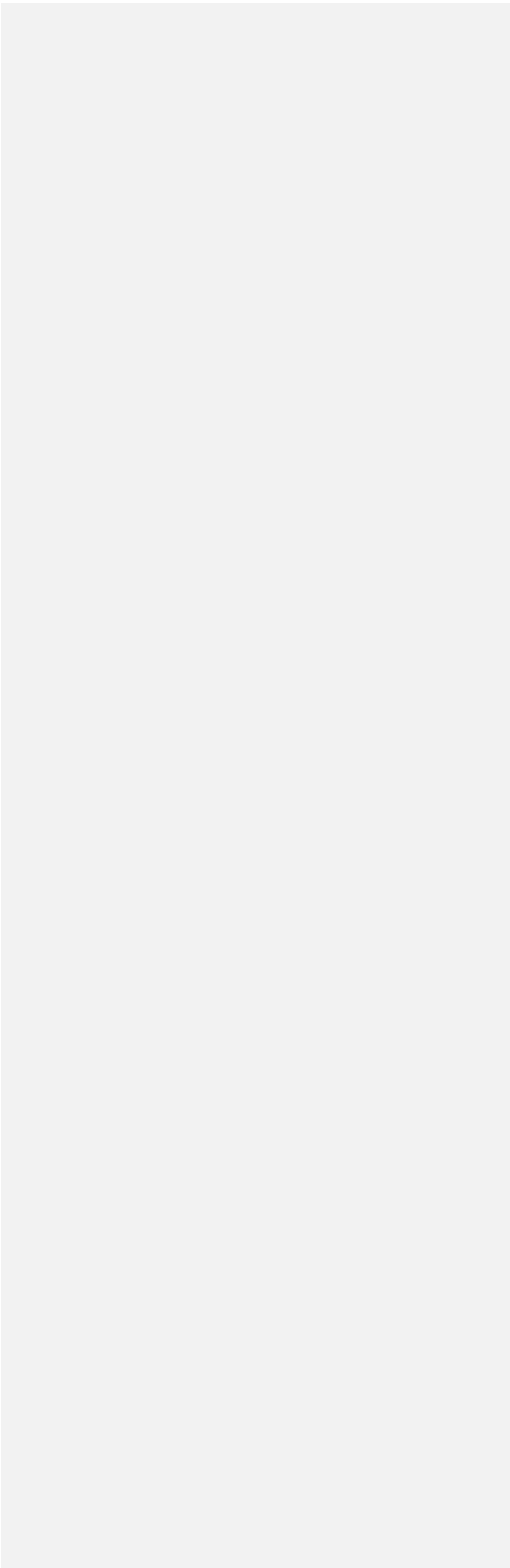
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assisted family in a divorce or separation under a settlement or judicial decree, the Authority is bound by the court's determination of which family members continue to receive assistance in the program.



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.H. Remaining Member Of ~~TENANT~~ Family. — Retention of Voucher [24 CFR 982.315]**

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.

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## 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 the 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), up to 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, 2021.**

**9-I.A. Term Of Assisted Tenancy [24 CFR 982.309]**

The RFTA must be signed by both the owner and voucher holder. 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 whether or not they are approvable. 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):**

The Authority determines that the Request cannot be approved for any reason, the landlord and the family will be notified. The Authority will instruct

the owner and family of the steps that are necessary to approve the request. 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, as long as the family is still eligible for the Housing Choice Voucher Program. The time limit on the Voucher will be suspended while the RFTA is being processed.

**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, and
- The address of the unit rented (including apartment number, if any),
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner and
- 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

House rules of the owner may be attached to the lease as an addendum, provided they are approved by the Authority to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by [24 CFR 35.92(b)].

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that the owner may evict the family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

Actions before Lease Term:

All of the following must always be completed before the beginning of the initial term of the 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

During the initial term of the lease, the owner may not raise the rent.

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 contract rent is not reasonable, at the family's request, the Authority will negotiate with the owner to reduce the rent to a reasonable rent.

If the rent is not affordable because the family share would be more than 40% of the family's monthly-adjusted income, the Authority will 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 initiated 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.

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**

~~(Also 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.

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**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.

**10-I.A. Rent Reasonableness Determinations-[24 CFR 982.507]**  
**{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

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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

## **PHYSICAL STANDARDS**

### **10-I.B. General HUD Requirements And Inspection Types [24 CFR 982.401(A) Subpart I, 982.405]**

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.

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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.

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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. Initial inspections are still required (See HQS 1 for exceptions to this standard)

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:

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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.

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.

~~**HUD WAIVERS:**~~

~~HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's~~

~~certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum, the PHA must require this owner certification. The PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than the 1-year anniversary date of the owner's certification. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.~~

Period of Availability:

~~The period of availability of HUD waivers is in most cases extended to December 31, 2021:~~

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#### **AUTHORITY ADOPTED WAIVERS:**

~~The Authority adopted the following HUD waivers under PHH 2020-05 and extensions granted with additional waiver options in PHH 2020-13~~  
~~The period of availability of HUD waivers is in most cases extended to December 31, 2021:~~

- ~~● **HQS-1** HCV Initial Inspection Requirement allows for a self-certification by owner and tenant that there are no life-threatening deficiencies and agree that the unit will be inspected within 1-year of the anniversary date of the signed self-certification.~~
- ~~● **HQS-2** PBV Pre HAP Contract Inspections PHA Acceptance of Completed Units: same definition as HQS-1 under HCV~~
- ~~● **HQS-3** Initial Inspection: Non-Life-Threatening Deficiencies Allows for an extension of up to 30 days for owner to make repairs of non-life-threatening conditions found at time initial inspection is conducted. (within 1-year of self-certification)~~
- ~~● **HQS-4** HQS initial Inspection Requirement Alternative Inspection Option: Under the Initial HQS Alternative Inspection Option HUD allows the Authority to begin commencement of the Housing Assistance Payment (HAP) contract based on owner certification there are no life-threatening deficiencies known to exist at the unit to be assisted.~~

Where self-certification is used, the Authority is required to inspect the unit no later than 1 year from the anniversary of the self-certification date.

**10-I.C. — Dwelling Unit: HQS, Subsidy Standards, Inspection and Maintenance [24 CFR § 982.401]**

**(A) Housing Quality Standards (HQS)**

Performance and acceptability requirements:

- (1) 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

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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).

a) Food preparation and refuse disposal

Performance requirement:

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- 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).

b) 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.

c) 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.

d) 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.

e) 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.

f) 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.

g) 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.

h) 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.

i) 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).

j) 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.

k) 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.

l) 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 50 degrees Fahrenheit between October 1 and May 1. (Absence of a heating system when outside temperature is below 50 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

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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 basements.

- 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 (NFPA) (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.

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- 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:

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH Notice 2020-13 issued on July 2, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers~~

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~~and alternative requirements are necessary for the safe and effective administration of the Public Housing, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice remain effective as of April 10, 2020. **The period of availability of HUD waivers is in most cases extended to December 31, 2021.**~~

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~~Housing Authorities may adopt the use of any of these waivers at any time during the period of availability. **The period of availability of HUD waivers is in most cases has been extended to December 31, 2021.**~~

#### Initial Inspections :

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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) ~~**The period of availability of HUD waivers is in most cases has been extended to December 31, 2021.**~~

#### Annual/Biennial Inspections.

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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.

~~HUD is allowing PHAs to delay biennial inspections for both tenant-based and PBV units. All delayed biennial inspections must be completed as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent the waiver. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. Period of Availability: The PHA must conduct the delayed~~

~~biennial inspection as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent the waiver. **The period of availability of HUD waivers is in most cases has been extended to December 31, 2021.**~~

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.

~~HUD is allowing Authorities to waive the requirement to conduct an interim inspection and may utilize an alternative method to verify repairs. **The period of availability of HUD waivers is in most cases has been extended to December 31, 2021.**~~

Housing Quality Control Inspections. [24 CFR 982.405(b)] and 983.103(e)(3)

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.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH Notice 2020-13 issued on July 2, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 of HUD waivers is in most cases extended to December 31, 2021.**~~

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~~HUD is waiving regulations that require Housing Authority's to conduct supervisory quality control inspections of a sampling of units under contract Period of Availability. The period of availability for the HCV waivers is in most cases extended to December 31, 2021.~~

Inspection of Authority-Owned Units:- [24 CFR 982.404],  
~~[24 CFR 982.404 and 983.103 (b)]~~

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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).

#### Inspection Costs

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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

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The Authority does not charge a fee for failed re-inspections.

**10-1.F. Notice and Scheduling**

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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]**

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Owner and Family Inspection Attendance

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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 of 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)

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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.

#### ~~Inspection Waivers:~~

~~The period of availability for the HCV waivers is in most cases extended to December 31, 2021~~

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.

~~The Authority adopted temporary HQS HUD waivers for the period of availability extended to December 31, 2021.~~

#### ~~HUD HQS Waivers:~~

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH Notice 2020-13 issued on July 2, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements~~

~~are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to December 31, 2020. **The period of availability for the HCV waivers is in most cases extended to December 31, 2021.**~~

~~HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum, the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than the 1-year anniversary date of the owner's certification. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.~~

~~Initial Inspection: Non-Life-Threatening Deficiencies~~

~~**The period of availability for the HCV waivers is in most cases extended to December 31, 2021**~~

~~HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days. Instead, the PHA may provide an extension of up to an additional 30 days to the owner to make the NLT repairs and continue to make payments to the owner during the period of that maximum 30-day extension. If the owner has not made the NLT repairs by the end of the PHA extension period, the PHA must withhold payments. This NLT initial inspection option is available to the PHA for both tenant-based units and project-based units. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. Period of Availability: The period of availability for the PHA~~



~~to approve an extension of up to an additional 30 days ends on December 31, 2020. The period of availability for the HCV waivers is in most cases extended to December 31, 2021~~

**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.

**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 are inspections 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 a are conducted a n n u a l within 12 months of the last Authority passed inspection.

Biennial inspections are 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.

~~family and owner are notified of the date and time of all inspection appointments either by mail, email or telephone. If an adult family~~

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~~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).

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.

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## Authority Policy

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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.

### **HUD Waiver:**

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020. **The period of availability for the HCV waivers is in most cases extended to December 31, 2021.** HUD is allowing PHAs to delay biennial inspections for both tenant-based and PBV units. All delayed biennial inspections must be completed as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent the waiver. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. Period of Availability: The PHA must conduct the delayed biennial inspection as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent~~

~~the waiver.~~

**10-I.L. Special Inspections [24 CFR 982.405(g)]**

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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**

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During a special inspection, the Authority generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the 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**

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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**

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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)

~~10-I.M. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(G)]~~

~~If a participant or government official reports a life-threatening deficiency requiring the owner to complete the repair(s) within 24 hours, the Authority will notify the owner of the findings on the same day the inspection is completed, informing them that the unit must be re-inspected within 24 hours of notification. If the reported condition is non-life-threatening, the re-inspection will automatically be scheduled within 21-30 calendar days from the date the unit failed.~~

~~**Authority Policy**~~

~~The Authority may conduct a special inspection to inspect only the deficiencies that were reported. If additional deficiencies are observed during the special inspection, the inspector will record any additional HQS deficiencies and will require all repairs to be made prior to the unit being re-inspected.~~

~~The Authority does not determine responsibility of owner or tenant but only that the repairs are completed.~~

~~If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is being scheduled, the Authority may elect to conduct a full annual inspection.~~

ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS

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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**~~

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Smoke detector(s) for the hearing impaired will be required in the household per the following criteria:

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- Must meet National Fire Protection Association Standard 74 (or its successor standard).

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- 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)

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The Authority may accept landlord or tenant certification that the appropriate criteria has been met.

- Carbon monoxide detector

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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

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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

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If present, cabinet drawers and doors must be intact, with proper door hinges and on tracks.

Countertops

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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).

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Fences:

For safety reasons, owners may be requested to install, repair or remove a fence.

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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.

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Electricity:

GFCI outlets must work properly. If 3-prong, must be grounded.

No open light sockets allowed.

Globes on interior lights are not required.

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Landscaping

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All yards must conform to neighborhood standards. Single family units or duplexes must have one operating outside water faucet.

Mail Boxes

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Each unit must have its own official mailbox where the U.S. Postal Service officially delivers mail to the physical addresses.

Miscellaneous

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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

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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

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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

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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

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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

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All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

Garbage Disposal

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Must have acceptable splashguard. Worn splashguards are unacceptable.

Toilet Seats

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Cracked toilet seats and tank lids must be replaced. Toilet tank lid must fit properly

Utility Meters

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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

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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

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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

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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

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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]**

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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 50 degrees Fahrenheit on the day of inspection. If there is a weather forecast predicating temperatures to be below 50 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.

### **Smoke Detectors**

~~Inoperable smoke detectors are a serious health threat and will be treated by the Authority as an emergency (24 hour) fail item.~~

~~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 (except for crawl spaces and unfinished attics). Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired person as specified in NFPA 74 (or successor standards).~~

~~If the smoke detector is not operating properly the Authority will contact the owner by phone and request the owner to repair the smoke detector within 24 hours.~~

~~If the Authority determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the Authority will re-inspect the unit the following day.~~

~~The Authority will issue a written warning to any family determined to~~

~~have purposely disconnected the unit's smoke detector. The warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.~~

### ~~Carbon Monoxide Detectors~~

~~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.~~

### 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

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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.

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10-I.P.S. 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.

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~~10-I.T. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]~~

~~HUD requires PHA's to define life-threatening conditions. The Authority is required to notify the responsible party of the deficiencies and the responsible party must correct any 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.

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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.

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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-

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threatening condition. Further, for the purposes of this implementation notice, HUD is defining life-threatening conditions as follows:

- Gas (natural or liquid petroleum) leak or fumes.
- A life-threatening condition under this standard is one of the following: (a) A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking; or (b) 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) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed; (b) a light fixture is hanging by its wires; (c) 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; (d) a receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed; (e) a receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed; (f) 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; (g) a cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections; (h) any nicks, abrasions, or fraying of the insulation that expose conducting wire; (i) exposed bare wires or electrical connections; (j) any condition that results in openings in electrical panels or electrical control device enclosures; (k) water leaking or ponding near any electrical device; or (l) 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: (a) the smoke detector is missing; or (b) the smoke detector does not function as it should.
- Interior air quality. A life-threatening condition under this standard is one of the following: (a) the carbon monoxide detector is missing; or (b) 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: (a) 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; (b) a gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside; (c) a fuel fired space heater is not properly vented or lacks available combustion air; (d) a non-vented space heater is present; (e) safety devices on a fuel fired space heater are missing or damaged; or (f) 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: (a) Any of the components that affect the function of the fire escape are missing or damaged; (b) stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or (c) 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 PHAs if such changes are made. Any other condition identified by the administering PHA as life-threatening in the PHA's administrative plan prior to this notice taking effect.

**10-I.O. Violation of HQS Space Standards [24 CFR 982.401]**  
**[24 CFR 982.401, 24 CFR 982.403]**

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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**

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Notification of Corrective Actions

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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

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- 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, at the Authority's discretion, if the work is not completed or substantially completed, the Authority will begin the abatement.

The Authority will conduct a reinspection immediately following the end of the corrective period for life threatening violations.

At the Authority's discretion and when sufficient evidence supports that the unit has met previous yearly requirements set forth by the Authority, an Owner may be approved to self-certify to the repairs of non-life-threatening violations that they are responsible for unless they have had an abatement of an assisted unit within the last twelve (12) months.

If requested, the executed 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.

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 and the Authority will reinspect the unit to lift the abatement.

At the Authority's discretion and when sufficient evidence supports that the unit has met previous yearly requirement(s) Tenants may be approved to self-certify to the repairs of non-life-threatening violations that they are responsible for.

The executed 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 may result in termination of the family's assistance.

**10-I.Q. Special Requirements Ffor Children With Elevated Blood Lead Level [24 CFR 35.1225]**

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If a 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]**

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**Family Responsibilities**

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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:

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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]

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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

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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

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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

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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.



**10-1.Q. Lead-Based Paint and HOS [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: ~~means~~ the 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: ~~means~~ the housing agency or the property owner, as indicated in the applicable section, is responsible for complying with applicable requirements.

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Elevated Blood-Lead Level (EBLL): ~~means~~ 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.

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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): ~~means~~ a confirmed concentration of lead in whole blood equal to or greater than 20 ug/dl (micrograms of lead per deciliter) for a single test or 15 to 19 ug/dl in two tests taken at least 3 months apart.

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Environmental Investigation: ~~means~~ 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.

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Expected to Reside: ~~means~~ the actual 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.

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Index Unit : ~~means~~ a unit where a child with an elevated blood lead level resides.

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Multi-unit Property: ~~means~~ a 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.

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Other Covered Units: ~~means~~ 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.

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Target Housing : ~~means~~ 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

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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 PHA, and under other subparts, the owner is responsible for certain activities, and the PHA, 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 PHA is the designated party, the LSHR provides that the owner is responsible for certain EBLL response activities and the PHA 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 PHA or the owner, as described below, must take certain steps. (For a more detailed explanation, please refer to section 6.) For the HCV program, the regulations identify the PHA 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 PHA, other steps. In addition, 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

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days. The PHA 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 PHA 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 PHA so the PHA may notify the public health department, if the PHA 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 PHA 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).

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The PHA is responsible for:

- Verification of the case, when notification is not from a medical health care provider: The PHA 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 PHA 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. PHAs 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:
  - o Notifying HUD of a confirmed case;
  - o Notifying the public health department when any other medical health care professional notified the owner of the case;
  - o 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

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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 PHA 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 PHAs and HCV rental property owners for compliance when a child in the HCV program is identified with an EBLL.

Responding to EBLs, Environmental Investigations, and Lead Hazard Control Verification

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The first step a PHA or owner, as applicable, based on the type of assistance, or the PHA 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 PHA 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 PHA 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 PHA 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. The PHA 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 PHA or owner, as applicable, must provide:

- PHA code and name, if the PHA 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 PHA 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 PHA's policy for private medical information. If the PHA 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 PHA or owner, as applicable, based on the type of assistance, or the PHA on behalf of the owner, if they have decided to collaborate in that way (see section 5, above), 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

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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. PHAs 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 PHA 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 PHA 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 PHA 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. (See section 35.125(c)(4)(iii).)

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 as described in section 35.1340.

The party that does the hazard control work and the clearance examination depends on the assistance program:

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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, as described in section 5, above.

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 PHA may wish to collaborate with the owner on notifying the HUD field office, as described in section 5, above.

The table below summarizes the timelines for environmental investigations, lead hazard control work, clearance, and field office notifications when the PHA learns a child has an EBLL.

#### Index Units

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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 multiunit 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 35.1130(f). Under this new rule, the requirement has been extended to the HCV and PBV programs.

#### Index Units Recently Tested

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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 PHA, 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 PHA does not have to perform the environmental investigation if the family is relocated within 15 calendar days. In this scenario, the PHA may not know if the index unit contains lead-based paint hazards. Without test results, the PHA 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 PHA 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)

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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 housing 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 PHA 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 a PHA 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 PHA 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

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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 PHA 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; and
- The PHA 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 PHA may wish to collaborate with the owner on providing the documentation, as described in section 5, above.

Monitoring and Enforcement

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HUD may request documentation of compliance with the LSHR at any time, for the HCV, PBV, and public housing programs.

HCV and PBV Program

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PHAs are 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 PHA 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 PHA may wish to collaborate with the owner on this notification, as described in section 5, above.
- The owner is responsible for performing the lead hazard control work, and for incorporating ongoing lead-based paint maintenance activities into regular building operations (see section 35.1355(a)), 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 PHA 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). PHAs can also opt to have a certified risk assessor on staff with the PHA becoming a certified risk assessment firm, where required, or available via contract (the PHA does not have to become a certified risk assessment firm). PHAs 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 PHA may wish to collaborate with the owner on conducting the visual assessments, as described in section 5, above.

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 PHA 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. PHAs 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 PHA, as applicable, is unable to comply with the deadline for lead hazard control work due to weather conditions, the PHA 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 PHA, 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

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If a person becomes aware of an EBLL case where the owner or PHA 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, and to the Office of the Inspector General via the OIG Hotline at 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

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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 PHA 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 PHA should document this for HUD compliance reviews. PHAs should also attempt

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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 PHA shall comply with all requirements of the LSHR and this guidance.

If a health department agrees to share EBLL information, the PHA 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

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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 a more detailed explanation, please refer to section 6.) 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.

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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 PHA 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

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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 PHA 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.

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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 PHA 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.

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Within 15 calendar days, 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. The PHA 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.

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▲ 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.

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As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.

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▲ 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 PHA 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.

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▲ Ongoing lead-based paint maintenance:

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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.

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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 PHA is responsible for:

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Monitoring of owner's compliance with LSHR.

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Monitoring the PBV owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. This includes such actions as (see above) monitoring the owner's compliance in:

- o 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.

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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 PHA will be monitoring the owner's compliance with the LSHR in accordance with the HAP contract between the PHA and the owner, the PHA may wish to collaborate with the owner on this monitoring process, such as by agreeing to have the owner inform the PHA that the lead hazard control (including passing clearance) is complete, and providing documentation.

Lead Hazard Control.

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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.

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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 1

### **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.

Initial Intent to Lease Unit: The owner and family must first negotiate and agree on the amount of the initial contract rent for a the unit. The initial rent must not exceed the families maximum approved rent burden.

In cases where the Authority owns the unit, The Authority (or independent agency in the case of Authority-owned units) will assist, if applicable, 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, upon request.

#### Initial Lease:

At Prior to initial occupancy the Authority must determine whether the proposed rent is reasonable before approving a unit for the family to lease.

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~~HAP contract is signed. 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 rent amount. during the initial lease term.~~ Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family.

Rent increases will not be approved unless the unit has passed and there are no outstanding fail any failed items ~~identified~~ by the most recent HQS inspection. ~~have been corrected and the units most recent inspection passed~~

#### Authority Policy

The Authority will determine in a timely manner, whether the if the requested rent increase is reasonable. The Owner/Landlord will be notified in a timely manner if the requested amount is reasonable and approved or if it is not reasonable and can be negotiated. within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be made effective the first day of the month. ~~following 60 days after the Authority's receipt of the owner's request or on the date specified by the owner, whichever is later.~~

#### ~~11--I.C. Authority and Hud- Initiated Rent Reasonableness Determinations~~

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HUD requires the Authority to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the Authority to ~~make a determination~~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 that 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):-

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- 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.

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#### Rent to Owner in the HCV Program:

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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 comparable-similar unassisted units in the area.~~

~~The only other limitation on rent to owner at initial lease is the maximum allowable rent burden at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance and any for a new occupancy of a dwelling unit, whether it is a new admission or continued assistance (new move in) (in place or not), whether the tenant is an existing occupant or not, or a move to a different unit. The family share may not exceed 40 percent of the family's monthly adjusted income.~~

~~During the initial term of the lease, the owner may not raise the rent (contract rent) to owner.~~

When raising the rent, the owner must give at least a 60-day written notice to the tenant and provide the Authority a copy of the notice served to ~~Authority~~ the tenant.

~~When funding is available, the Authority will review the owner's request to increase the contract rent.~~

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#### **11--I.D. Making Payments to Owners [24 CFR 982.451]**

The Authority will issue payments to landlords ~~viaby~~ direct deposit. ~~As a requirement~~ The Authority requires, ~~all~~ landlords ~~will be required~~ to enroll in Direct Deposit by Electronic Funds Transfer (EFT) as the primary method of payment. In the event if 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 ~~and or~~ at the next scheduled ~~mid-month~~ 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 payments~~ 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 if~~ late fees were imposed by any lender and proof is submitted by ~~if requested by~~ the owner. The Authority will not be obligated to pay any late payment penalty if ~~HUD-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-Housing Assistance Payments is are~~ not paid promptly when due, ~~or within after~~ 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

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and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant;

- 1.
2. It is the owner's practice to charge such penalties for assisted and unassisted tenants; and
- 2.
3. The owner also charges such penalties against the tenant for late payment of family rent to owner.

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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

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HUD requires ~~Housing Authorities~~ 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~~ units when the units are not identical to the ~~HCV 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

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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 p~~ Project-based assistance;
- Section 236 and Section 221(d)(3);
- Below Market Interest Rate (BMIR) projects;

- HOME<sub>2</sub> or
- Community Development Block Grant (CDBG) program- assisted units in which the rents are subsidized;
- ~~U~~Units subsidized through federal, state, or local tax credits;
- ~~U~~Units subsidized by the Department of Agriculture;
- ~~R~~Rural housing programs<sub>2</sub>; and
- ~~U~~Units that are rent-controlled by local ordinance.

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Rents Charged for Other Units on the Premises

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The Request for Tenancy Approval (HUD-52517) requires owners to provide information, ~~o~~in the form~~-itself~~, about the rent charged for other unassisted comparable units on the premises<sub>2</sub> 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]

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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 re-determine the reasonable rent before any increase in the rent to owner and/or if directed by HUD.

Rent 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.

**PART II**

**11--H.A.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.

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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 [24 CFR 982.503(b)].

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.

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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.

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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.

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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.

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**11-I+BG. 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.

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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)"

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The payment standard for a family is the lower of:

- ~~(1)~~ the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the Authority's subsidy standards; or
- ~~(2)~~ the payment standard for the size of the dwelling unit rented by the family.

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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.

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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)]

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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 ~~121~~10%) 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--H-G. 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.

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**11-I-H-D-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.

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Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

**Payment Standards and Calculations [24 CFR 982.505]**

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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.

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Rent to Owner Increase

Where the owner is requesting a change the amount of the rent to owner, the owner must serve the tenant proper notice and provide a copy of the same notice to the Authority 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, or terminate the tenancy in accordance with the terms of the lease.

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.

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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.

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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

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Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

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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 of not more than 110 percent of the published FMR.

Increases in Payment Standard

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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.

### 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.

### 11-III-E. Exception Payment Standards

~~If the dwelling unit is located in an exception area, the Authority must use the appropriate payment standard amount established by the Authority for the exception area in accordance with regulation 24 CFR 982.503(c).~~

## PART III

### 11-III-A. Owner Payment In The Housing Choice Voucher Program [24 CFR 982.308(g)]

#### Changes in Lease or Rent [24 CFR 982.308]

~~The owner is required to provide a copy of the written rent increase notice given to the tenant at least sixty (60) days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements [24 CFR 982.507].~~

~~If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.~~

~~No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].~~

### Authority Policy

Housing Authority of the County of Merced  
Owner Rents, Rent Reasonableness &  
Payment Standards

FY 21/2222/23

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~~Where the owner is requesting a rent increase, the Authority will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.~~

~~Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies the Authority of the rent change or on the date specified by the owner, whichever is later.~~

~~Rent increases will not be approved within the initial contract term. The unit must not have any failed items within the previous twelve (12) month period.~~

**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.

~~Families will be provided~~ The Authority will provide families with accurate annual and interim rent adjustments according to reported or verified information.

~~Re-certification examinations (annual and interim) examinations~~ will be processed in a timely manner that ensures families are given reasonable notice of an increase in their rent portion. ~~increases. All a~~

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 ~~annual~~ re-examinations, certifications and coordinating annual for annual and interim activities. ~~It also explains the interim reporting requirements for families, and the standards for timely reporting.~~

**CHAPTER 12**  
**PART I**

**12-I.A. annual activities [24 CFR 982.516]**

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There are two (2) activities the Authority must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of income and family composition
2. HQS inspection

At each annual anniversary date of the HAP contract, the Authority may adjust the rent to owner at the request of the owner. The rent must be reasonable (as determined by the Authority in accordance with 982.503).

The Authority produces 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**

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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 and determines the date the annual recertification is due each year.

**Reexamination Notice to the Family**

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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 may be conducted by mail, in person appointment or submitted online. 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 register or U.S. mail approximately ninety (90) days in advance of the anniversary date. The Authority may require recertifications be submitted through the online resident portal.

If requested as an accommodation by a person with a disability, the Authority will provide the notice in an accessible format and/or provide assistance

with completing the online renewal. ~~Personal Declaration Packet and all other forms.~~

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The Authority is required to will conduct third party verification to request required documents if a family is unable to provide.

~~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 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, 2021.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;~~

~~The income verification waivers extend only to annual and interim recertifications. HUD has not provided guidance or any statutory waiver for initial eligibility verification due to the stringent requirement that a family must meet the criteria selected for and be under the targeted income limit~~

#### Completion of Annual Recertification

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The Authority is required to complete annual recertifications for families before the anniversary effective date. This includes notifying the family of their rent change at least thirty (30) days before the scheduled date of change in family rent.

Persons with Disabilities: Persons with disabilities who are unable to complete the recertification paperwork by mail may request as an accommodation, to have the annual recertification conducted at the person's home, or other means when the accommodation requested meets the need presented by the disability.

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#### Collection of Information [24 CFR 982.516(f)]

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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 Personal Declaration



packet for all annual recertifications.

### Requirements to Attend

When an annual interview is scheduled, all adult household members ~~will~~may be required to attend the recertification appointment interview. If the head of household is unable to attend the interview, the spouse or co-head may recertify for the family.

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### 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.

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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 complete the annual recertification.

If the family fails to attend or misses a second scheduled appointment, and has not communicated with the Authority, the Authority will send the family a Notice of Proposed Termination advising they are in violation of program family obligations and give the family an option to request an informal hearing.

If the letter is returned to the Authority with a forwarding address, the Authority will contact the family to confirm the address. When a letter 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 the appointment or if requested as a reasonable accommodation for a person with a disability.

### 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):

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- Online completion of the 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 paystub<sub>u</sub>
- Current SSI/SSA Award letter<sub>u</sub>
- Unemployment Printout (For members claiming zero income, a Statement of Facts and/or Certificate of No Income form may be required)<sub>u</sub>
- Current pension award statement(s)<sub>u</sub>
- Bank Statements for all members and accounts (3 most current/consecutive)<sub>u</sub>
- Child Support award statement<sub>u</sub>
- 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)<sub>u</sub>
- Verification of Immigration Status (if applicable) at each annual reexamination<sub>u</sub>
- Photo I.D. for each adult member<sub>u</sub>

Other required forms included with the packet:

- Authorization ~~f~~For The Release of Information<sub>u</sub>
- Form HUD 92006<sub>u</sub>
- Medical Marijuana Form<sub>u</sub>
- VAWA ~~form~~<sub>u</sub>
- Form HUD 9886

#### Verification Methods

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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 less than one hundred twenty (120) days old.

~~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 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, 2021.** HUD is waiving the requirement~~

~~that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;~~

~~The income verification waivers extend only to annual and interim recertifications. HUD has not provided guidance or any statutory waiver for initial eligibility verification due to the stringent requirement that a family must meet the criteria selected for and be under the targeted income limit~~

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#### College Student Redetermination of Eligibility

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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

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If the tenant rent portion increases, the Authority will notify the family by providing a thirty (30) day notice of change to rent portion. This notice is mailed to the family thirty (30) days prior to the scheduled effective date of the recertification.

If less than thirty (30) days are remaining before the scheduled effective date

of the annual recertification due to delay by the Authority, the family's increase in rent portion will be made effective on the first of the month following the family being notified.

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 and there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination process, the family will be responsible to pay such increase retroactive to or on the effective date of the recertification.

Tenant Rent Decreases

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If the tenant rent decreases, it will be effective on 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 by the Authority. ~~No back HAP payments will be issued.~~

Reporting Interim Changes [24 CFR 982.516]

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Program participants must report all changes in the household within thirty (30) days of the change taking effect between annual reexaminations. This includes changes to income and household composition such as removal of or additions to the household including due to birth, adoption and court-awarded custody. The family must obtain Authority prior approval to all other additions to the household.

Additions to Household Member

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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 an accommodation if requested for a person with a disability.

When a new family member any income received by that family member will count towards the total family income. The Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at first interim or regular recertification after moving into the unit.

If the non-citizenship category of the family changes due to a member becoming a legal non-citizen or whatever the circumstances, a recertification will be conducted to adjust the rent according to the new family category, 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 ~~is~~are not met.

Interims:

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An interim reexamination does not affect the date of the annual recertification. Families claiming zero income will be reviewed the Authority every ninety (90) days for an interim reexamination to be completed.

~~The Authority will review the Enterprise Income Verification (EIV) Income Report for each New Admission within ninety (90) days of the participant's admission date 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 will not be processed between regularly scheduled annual re- certifications.

**INTERIM REEXAMINATIONS**

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

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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 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 may be 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 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.

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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:

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- 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.

The Authority will notify affected families that they have the right to an informal hearing regarding these requirements.

Definition of "Imputed Welfare Income"

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

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The amount of imputed welfare income is determined by the Authority, based

on written information supplied to the Authority by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim 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, 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 (Merced County Human Services Agency) stating that the family's benefits have been reduced for fraud or noncompliance *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, which will include:

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- 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 Housing Choice Voucher (HCV) 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 HCV participants.

**12-I.C. Disallowance of Earned Income From Rent Determinations (Meid) [24 CFR 5.616; 982.201(b) (3)]**

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The Earned Income Disallowance (EID) is designed to promote self-sufficiency for families with disabilities in the HCV program who 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 24-month period for the qualifying family member. Once a family member is determined eligible for the EID, the 24-calendar month period will start. If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues.

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 of the family 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 qualified for the earned income exclusion is a family that is receiving tenant- based rental assistance under the Housing Choice Voucher Program and must meet 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, training or mentoring after employment.

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

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

of employment or increase in earned income.

~~Once a family member is determined to be eligible for the EID, the 24-calendar month period starts; If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;~~

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

~~During the first 12-calendar month period, Authority will exclude all increased income resulting from the qualifying employment of the family member. After the first 12-calendar month period, Authority will exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income):  
The EID benefit is limited to a lifetime 24-month period for the qualifying family member;~~

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

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 (refer to Section B above)

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- 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
- Date(s) earned income ended and resumed during the second twelve (12) month period (phase-in) of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the phase-in exclusion
- 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.

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**~~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, 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~~

~~12--I.D. Notification of Results Of Reexaminations~~

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 is mailed to the owner and the tenant. Signatures are not required by the Authority on the Notice of Rent Change. If the family disagrees with the rent adjustment, they may request an informal hearing as stated on the bottom of the Notice of Rent Change.

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**12.I.E. Timely Reporting of Changes in Income (AND ASSETS) [24 CFR 982.516(c)]**

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The Authority requires that families report interim changes (in writing) 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 (in writing) within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

**Procedures when the Change is Reported in a Timely Manner**

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The Authority will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

**Increases in the Tenant Rent** are effective on the first of the month following at least thirty (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.

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**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.

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The change will not be made until the **verifications have been received.** ~~third-party verification is received.~~

**Procedures when the Change is Not Reported by the Tenant in a Timely Manner**

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~~If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim processing and the following guidelines will apply:~~

~~**Increase in Tenant Rent** will be effective on the first day of the month that change would have been effective had the change been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to repay the Authority and sign a repayment agreement or make a lump sum payment. In some instances, depending on the circumstances, the family may be terminated from the program.~~

~~**Decrease in Tenant Rent** will be effective on the first of the month following the month that the change was reported, 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 this interim policy, the Director of Housing Programs or his or her designee may approve such hardship request.~~

~~**Procedures when the Change is Not Processed by the Authority in a Timely Manner**~~

~~"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the Authority in a timely manner.~~

~~In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the Authority. If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.~~

~~**12--I.F. Continuance of Assistance Ffor "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.

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**CHAPTER 13**  
**MOVES WITH CONTINUED ASSISTANCE/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) ~~business~~ 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.

Families will not be permitted to move during the initial year of assisted occupancy.

### **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

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of intent to vacate specified in the lease and must give a copy to the Authority simultaneously.

Time of Contract Change

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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 and contract. Assistance payments may overlap for the month in which the family moves.

13-I.D. Portability [24 CFR 982.353]

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Portability applies to families moving out of or into the Authority's jurisdiction within the United States and its territories.

13-I.E. Outgoing Portability [24 CFR 982.353, 982.355]

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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. When a family requests to move outside of the Authority's jurisdiction, the request must specify the area to which the family wants to move.

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

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.

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## 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. Incoming 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.

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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)]

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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.

Request for Approval of Tenancy

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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

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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

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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.

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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.

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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:

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- 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.

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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.

~~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, 2021.**~~

**PART I**

**14-I.A. CONTRACT TERMINATION [24 CFR 982.311]**

~~**14-I.1**~~ When Assistance Is Paid:

Payments under HAP contract:

Housing Assistance Payments (HAP) is paid to an owner 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 in accordance with the lease.

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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 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.

~~Termination of payment: Other reasons for termination.~~ Housing assistance payments terminate if:

- (1) The lease terminates;
- (2) The HAP contract terminates; or
- (3) 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 Bby the Owner: Evictions [24 CFR 982.310,**

(a) Grounds. During the term of the lease, the owner may not terminate the tenancy except on the following grounds:

- (1) 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;
- (2) Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or
- (3) Other good cause.

~~(b) Nonpayment by Authority: Not grounds for termination of tenancy.~~

- (1) 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 .
- (2) The Authority 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.

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(c) Criminal activity.

(1) Evicting drug criminals due to drug crime on or near the premises.

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.

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(2) Evicting other criminals.

(i) Threat to other residents. The lease must provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

- (A) 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);
- (B) 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
- (C) 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.

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(ii) Fugitive felon or parole violator. The lease must provide that the owner may terminate the tenancy if a tenant is:

- (A) 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 that, in the case of the State of New Jersey, is a high misdemeanor; or
- (B) Violating a condition of probation or parole imposed under Federal or State law.

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(3) Evidence of criminal activity. The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that 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

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satisfying the standard of proof used for a criminal conviction. (See part 5, subpart J, of this title for provisions concerning access to criminal records.)

(d) Other good cause.

(1) "Other good cause" for termination of tenancy by the owner may include, but is not limited to, any of the following examples:

- (i) Failure by the family to accept the offer of a new lease or revision;
- (ii) 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;
- (iii) 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
- (iv) 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).

(2) 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 (see paragraph (d)(1)(iv) of this section).

(e) Owner notice.

(1) Notice of grounds.

- (i) 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.
- (ii) The notice of grounds may be included in, or may be combined with, any owner eviction notice to the family.

(2) Eviction notice.

- (i) 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.

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(ii) The owner must give the Authority a copy of any owner eviction notice to the family.

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(f) Eviction by court action. The owner may only evict the tenant from the unit by instituting a court action.

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(g) 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.

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(h) Termination of tenancy decisions.

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(1) 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.

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The owner may consider all of the circumstances relevant to a particular eviction case, such as:

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(i) The seriousness of the offending action;

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(ii) The effect on the community of denial or termination or the failure of the owner to take such action;

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(iii) The extent of participation by the leaseholder in the offending action;

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(iv) The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;

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(v) The demand for assisted housing by families who will adhere to lease responsibilities;

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(vi) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;

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(vii) The effect of the owner's action on the integrity of the program.

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(2) 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.

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(3) 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

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supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(4) Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault, or stalking.

~~talking~~-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).

982.453 Owner breach of contract. [24 CFR 982.453]

(a) 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:

(1) 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.

(2) If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

(3) If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

(4) 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.

(5) If the owner has engaged in drug-related criminal activity.

(6) If the owner has committed any violent criminal activity.

(b) 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: Foreclosure**

The 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

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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.

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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], 24 CFR 982.453, 982.454, 982.552(a)(3)**

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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).

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**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.

~~982.455 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.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020. the PHA, upon written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2020.~~

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.

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]~~

~~(a) Violation of HOS space standards:~~

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(1) If the Authority PHA 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 PHA Authority must issue the family a new voucher for a larger size unit, and the family and PHA must try to find an acceptable unit as soon as possible.

(2) If an acceptable unit is available for rental by the family, the PHA the Authority must terminate the HAP contract in accordance with its terms.

(b) Termination. When the Authority PHA terminates the HAP contract under paragraph (a) of this section:

(1) The PHA must notify the family and the owner of the termination; and

(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

(3) 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.

~~982.456~~ Third parties [24 CFR 982.456]:-

(a) Even if the family continues to occupy the unit, the PHA may exercise any rights and remedies against the owner under the HAP contract.

(b) The family is not a party to or third party beneficiary of the HAP contract. Except as provided in paragraph (b)(2) of this section, the family may not exercise any right or remedy against the owner under the HAP contract:-

(2) 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 PHA and the owner; and

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-(b3) in the lease between the tenant and the owner).  
(c) 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 PHA Authority or the owner under the HAP contract.

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## 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.

#### Grounds for Termination of Assistance

~~Describes circumstances under the program where housing assistance can be terminated by the family or by the Authority.~~

#### ~~Part II: Approach to Termination of Assistance.~~

~~The process that the Authority will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option and provides alternatives that the Authority may consider in lieu of termination.~~

#### ~~Part III: Termination of Tenancy by the Owner.~~

~~HUD policies that govern the owner's right to terminate an assisted tenancy.~~

~~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, 2021.~~

## **CHAPTER 15**

### **PART I: GROUNDS FOR TERMINATION**

#### **15-I.A. OVERVIEW 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 will be terminated. 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.

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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.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020. The PHA, upon written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2021.~~

15-I.C. Family Chooses ~~T~~to Terminate Assistance

The family may request that the Authority terminate housing assistance payments on behalf of the family at any time.

Authority Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable.

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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.

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

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- 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.

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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~~ termination;

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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 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:

- (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by

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the Authority, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit; ~~or-~~

~~For (3) above,~~ such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c)]

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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)]

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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.

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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.

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Failure of Students to Meet Ongoing Eligibility Requirements

[24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with 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.

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Death of the Sole Family Member [24 CFR 982.311(d)]

The Authority must immediately terminate program assistance for deceased single member households.

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**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

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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.

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#### 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.

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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)]

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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.

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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. ~~[FR Notice 12/29/14].~~

Authority Policy

The Authority will terminate a family's assistance if:

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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.

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

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(A) Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate assistance.

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Family Absence from the Unit [24 CFR 982.312]

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-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.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020.~~

~~They allow the PHA at its discretion to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members).  
Period of Availability: The period of availability for the PHA to choose to continue making HAP payments despite the family's absence of more than 180 consecutive days ends on December 31, 2020. The PHA may not make payments beyond December 31, 2021, and the HAP contract will terminate on that date if the family is still absent from the unit.~~

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;

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including

- 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.

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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.

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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.

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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.

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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

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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.

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**15-I.F. Ineligibility for Drug-Related or Violent Activity**

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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**

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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**

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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 Dru Sjodin National Sex Offender database located at www.nsopw.gov.

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### 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

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“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

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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 prorated 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, ~~ineligibility, of ineligibility,~~ ineligibility, of ineligibility, 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

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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

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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:

The term ~~domestic violence~~ 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

The term ~~s~~Sexual assault: means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

The term ~~s~~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

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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:
  - o that person,
  - o a member of the immediate family of that person, or
  - o the spouse or intimate partner of that person.

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The term ~~a~~affiliated individual means, with respect to an individual:

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- 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.

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The term ~~a~~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.

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Notification

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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 ~~makes a determination~~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.

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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.

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Limitations of VAWA protections:-

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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.

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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.

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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

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Victim Documentation:

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Authority

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.

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Perpetrator Documentation

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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

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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

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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

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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.

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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.

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The Authority will refer families to services in Merced County that ~~provide assistance to~~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 a 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.

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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.

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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.

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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

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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**

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#### **~~15-II.A. OVERVIEW~~**

The Authority is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the Authority 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.B.K. Method Of Termination [24 CFR 982.552(a)(3)]**

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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

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- Refusing to process a request for or to provide assistance under portability procedures.

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## 15-1.6L. Alternatives To Termination Of Assistance

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### Change in Household Composition

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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)].

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#### 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

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#### 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.

## 15-1.6M. Criteria for Deciding to Terminate Assistance

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## Evidence

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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)].

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## Authority Policy

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

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

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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)]

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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  
Housing Authority of the County of Merced  
Denial or Termination of Assistance

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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

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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

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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.

### 15-1.1.NE. Termination Notice

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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 [form HUD- 52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

#### 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.

When the Authority notifies an owner that a family's assistance will be terminated, the Authority will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the 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.

#### Authority Policy

Whenever the Authority decides to terminate a family's assistance because of the family's action or failure to act, the Authority will request in writing that a family member wishing to claim protection under VAWA notify the Authority within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the



"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.

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### **15.I.N. Termination of Tenancy by the Owner**

#### **15-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the Authority is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

#### **15-I.I.BO. 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.

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#### **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.

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#### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates

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federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest, or another person under the tenant’s control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, 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.

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### Evidence of Criminal Activity

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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

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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.

### ~~15-III.C. EVICTION [24 CFR 982.310(e) and (f)]~~

~~The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.~~

~~The notice of grounds may be included in, or may be combined with, any owner eviction notices to the tenant.~~

~~Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the Authority a copy of any eviction notices at the same time the owner notifies the family. The family is also required to give the Authority a copy of any eviction notice~~

#### Authority Policy

~~If the eviction action is finalized in court, the owner shall provide the Authority with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than **10** days following the court-ordered eviction.~~

#### ~~**15-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**~~

~~An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:~~

- ~~• The nature of the offending action~~
- ~~• The seriousness of the offending action;~~
- ~~• The effect on the community of the termination, or of the owner's failure to terminate the tenancy;~~
- ~~• The extent of participation by the leaseholder in the offending action;~~
- ~~• The effect of termination of tenancy on household members not involved in the offending activity;~~
- ~~• The demand for assisted housing by families who will adhere to lease responsibilities;~~
- ~~• The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;~~
- ~~• The effect of the owner's action on the integrity of the program.~~

~~The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants~~

~~termination.~~

~~In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C.13661).~~

~~For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.~~

~~An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L.~~

~~**15-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**~~

~~If a termination is not due to a serious or repeated violation of the lease, and if the Authority has no other grounds for termination of assistance, the Authority may issue a new voucher so that the family can move with~~

**Exhibit 12-1: Statement Of Family Obligations**

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 unit 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.

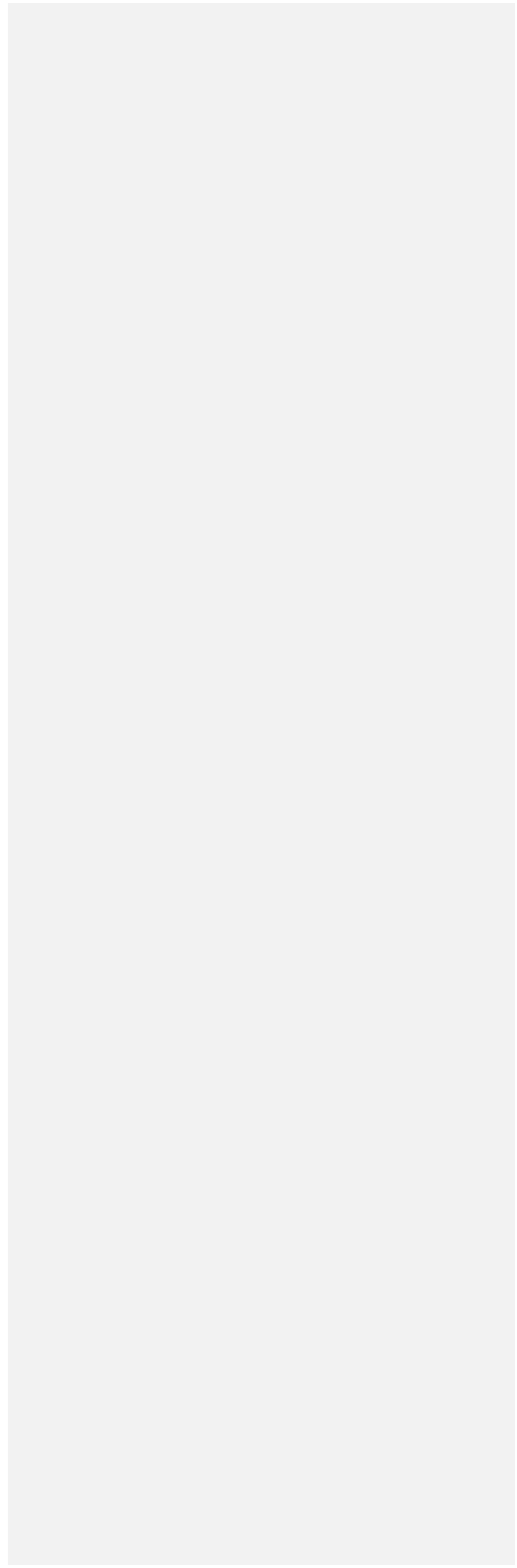
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing programs.

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 gosection8.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.BA. 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,

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- 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.B6. 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)].

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**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.

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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

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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)(a) 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:

- (1) The unit is eligible;
- (2) The unit has been inspected by the Authority and passes HQS;
- (3) The lease includes the tenancy addendum;
- (4) The rent to owner is reasonable; and
- (5) 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.

(b) Actions before lease term.

- (1) All of the following must always be completed before the beginning of the initial term of the lease for a unit:
  - (i) The Authority has inspected the unit and has determined that the unit satisfies the HQS;
  - (ii) 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
  - (iii) The Authority has approved leasing of the unit in accordance with program requirements.

(2)(i) The Authority must inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination:

**Waiver HQS-1: Initial Inspection Requirements**

**HUD Statutory Authority: Section 8(o)(8)(A)(i), Section 8(o)(8)(C) of the**

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~~USHA of 1937 Regulatory Authority: 24 CFR §§ 982.305(a), 982.305(b), 982.405.~~

~~**Regulatory Description:** Section 982.305 requires that the PHA must inspect the unit to determine that the unit satisfies the HQS before the beginning of the initial lease term and that the PHA must perform this inspection within either 15 days or within a reasonable time depending on the size of the PHA.~~

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020. HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum, the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than the 1-year anniversary date of the owner's certification.~~

~~**Waiver HQS-3: Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option**~~

~~**HUD Statutory Authority:** Section 8(o)(8)(A)(ii) of the USHA of 1937 Regulatory Authority: Housing Opportunity Through Modernization Act (HOTMA) of 2016: Implementation of Various Section 8 Voucher Provisions; 82 Fed. Reg. 5458 (Jan. 18, 2017).~~

~~**HUD Description:** Section 8(o)(8)(A)(ii) provides the PHA with the option to choose to approve an assisted tenancy, execute the HAP contract, and~~

~~begin making housing assistance payments on a unit that fails the initial HQS inspection, provided the unit's failure to meet HQS is the result only of NLT conditions. The statute further requires that the PHA must withhold housing assistance payments from the owner if the NLT conditions are not corrected within 30 days.~~

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH Notice 2020-13 issued on July 2, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to December 31, 2020. HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days. Instead, the PHA may provide an extension of up to an additional 30 days to the owner to make the NLT repairs and continue to make payments to the owner during the period of that maximum 30-day extension. If the owner has not made the NLT repairs by the end of the PHA extension period, the PHA must withhold payments.~~

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.

~~(12) The Authority may not pay any housing assistance payment to the owner until the HAP contract has been executed.~~

~~(32) 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).~~

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(43) Any HAP contract executed after the 60 day period is void, and the Authority may not pay any housing assistance payment to the owner.

~~**Waiver HCV-4: PHA Approval of Assisted Tenancy** — When HAP Contract is Executed Regulatory Description: The PHA may not make any housing assistance payments to the owner until the HAP contract is executed. The regulation provides that PHA must use best efforts to execute the HAP contract before the beginning of the lease term and that the HAP contract must be executed no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the PHA may not pay any housing assistance payments to the owner.~~

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020 HUD is waiving the regulatory requirement to allow PHAs to execute the HAP contract after the 60-day deadline has passed and make housing assistance payments back to the beginning of the lease term. However, the PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term.~~

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. Procedure after Authority approval. If the Authority has given approval for the family of the assisted tenancy, the owner and the Authority 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~~

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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.

HUD regulations permit the Authority to disapprove Owners participation as a Landlord receding HAP, and may disapprove future request for tenancies for any of (not limited to) the reasons outlined below.

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.

#### Authority Policy

It is not a given right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

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. 1437f)-;

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- 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~~:-~~

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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.
- 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.

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Conflict of Interest [24 CFR 982.161]; HCV GB p. 8-19]

The Authority must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the Authority (except a participant commissioner).
- Any employee of the Authority, or any contractor, subcontractor or agent of the Authority, who 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;

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- 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;
- 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

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The following represents Authority Policy on legal ownership of a dwelling unit to be assisted under the HCV program.

Authority Policy

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 ~~made a decision~~decided on the waiver request.

### Authority Policy

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

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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 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.

Note: 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.

**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).

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**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.

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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, the family representative will be required to sign a "Housing Choice Voucher" to confirm that all rules and pertinent regulations were explained to them.

Review and Explanation of Forms. Staff will explain all required forms and review the contents of all recertification documents prior to signature.

The Authority will routinely provide participant counseling 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.

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- 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.

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#### **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.

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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.

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#### **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.

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**17-I.E. Overpayment to Owners / Fraud**

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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**

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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):
- 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.

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- 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).

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**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.

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**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.

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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**

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If it is determined that a program violation has occurred, the Authority will review the facts to determine:

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1. The type of violation (procedural, non-compliance, fraud).
2. Whether the violation was intentional or unintentional.
3. What amount of money (if any) is owed by the family.

If the family is eligible for continued occupancy, or should be denied admission to the program.

#### Action Procedures for Violations Which Have Been Documented:

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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:

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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 is 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:

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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, and 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 other 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.

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### Dispositions of Cases Involving Misrepresentations

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▲ 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:

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#### 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

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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.

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### **17-I.K. Enterprise Income Verification (Eiv) User's Responsibilities**

The EIV user's responsibilities include the following:

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- 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.

- 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.

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- 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.

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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

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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

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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

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occupancy standards

- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster
- Foreclosure of unit

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**18-I.B. Debts Due To Misrepresentations /Non-Reporting Of Information [24 Cfr 982.163]**

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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**

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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**

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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**

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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.

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**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,

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**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~~ 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.

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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:

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- 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

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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) calendar 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

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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) business 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)]

Pursuant to PIH Notice 2020-32, HUD allows the Authority the following options when scheduling an informal hearing:

- 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.

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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 grievances.
- 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.

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- 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

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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 fourteen (14) 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

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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

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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.

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- 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) calendar 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.

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- 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) business 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.

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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.

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## 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) calendar 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.

**PART I**

**20-I.A. SINGLE ROOM OCCUPANCY [24 CFR 982.602, 982-603]**

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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]**

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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]**

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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]**

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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]

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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]

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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

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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

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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

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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]**

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Definitions

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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

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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

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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

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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

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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

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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.

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Housing Quality Standards

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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].

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**20-I.F. Manufactured Homes [24 CFR 982.620]**

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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]

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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)]

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Reasonable Rent

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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

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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

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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:

- a. the rent charged for the manufactured home space;
- b. the owner, maintenance and management charges for the space;
- c. the monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- d. the applicable allowances for tenant paid utilities.

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

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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 residents 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 residents 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

Section 302 of the Section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372).

Monthly Assistance Payment under Rental Assistance 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

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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 And Exceptions

Selection of the designated family/families for assistance will be generally handled in accordance with current policy as established in this Administrative Plan, with the following exceptions:

- If the 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.

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- 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.

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**21-I.D. Supportive Services**

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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.

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#### 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.

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#### 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:

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1. Effective the date of participation in the FSS Program, live within the Authority's jurisdiction for a minimum of 12 months;
  - o Exceptions are: job opportunities in other areas, education or illness in family. Verification will be required.
2. Agree to cooperate with all FSS program requirements, including case management;
3. Agree to follow their Action Plan, developed in consultation with the Self-Sufficiency Coordinator, in meeting their individual plan to become self-sufficient.

#### 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

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participating in the FSS Program:

1. Written notification to all existing program participants.
2. Mail outs to all existing program participants.
3. Written notification to current participants from another housing authority's jurisdiction who are utilizing the portability feature of the HCV certificate and voucher programs and who are relocating to the Authority's jurisdiction.
4. 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:

1. The date and time in which the preliminary application is received.
2. The length of time the applicant has been a program participant in the Housing Choice Voucher Program.
3. 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.

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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:

1. The FSS participant can request to remain in the FSS program as long as the distance from the new location would not hinder the participant's ability to meet their contractual obligations under the FSS Program.
2. The receiving Housing Authority can elect to absorb the FSS participant into their program, if such a program is available in the receiving Housing Authority's jurisdiction.
3. The FSS program participant can request to be released from the FSS Contract of Participation and relinquish all funds accumulated in the participant's escrow account.

#### **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.

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#### **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.

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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

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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:

1. 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.
2. The FSS Coordinator will complete the Contract of Participation with the income information.
3. The Board of Commissioners' Resolution #93-42 specifically states that at least once annually the FSS participants will receive a report of their escrow account balances. The Finance Department will be responsible for verification of escrow account amounts, and on a quarterly basis a report of escrow account balances will be provided to the FSS Coordinator, and mailed to each FSS participant who has an escrow account balance.
4. The Board of Commissioners' Resolution #93-43 states that the escrow account may not be accessed by the FSS participant until the Contract of Participation is completed and the individual has successfully completed the FSS Program. In accordance with HUD regulations the participant and family members must be completely off of all public assistance for a minimum of one year in order to receive their escrow account balance.

Escrow account calculations are based on earned income increases from the effective date of the Contract of Participation. Escrow credit for low, but not very low income, families is based upon 50% of median income limit and result in a higher credit than under the previous guidelines.

Family Self-Sufficiency Policies are in place in the FSS Action Plan regarding escrow account loans.

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## CHAPTER 23

### PROJECT-BASED VOUCHER PROGRAM [24 CFR Part 983]

#### OVERVIEW

This chapter describes the Project-Based Voucher Program Final Rule. ~~Only projects with a letter of commitment/selection on or after November 14, 2005 are covered by the "Project-Based Voucher Program: Final Rule" (also known as the "new" rule which was effective November 14, 2005).~~

~~Any project with a commitment/selection letter and an Agreement to enter into a Housing Assistance Payment (AHAP) contract that was executed on or after January 16, 2001, but before November 14, 2005, are covered by the "Revisions to the Authority Project-Based Assistance Program: Initial Guidance" (also known as the "old" rule).~~

~~HUD's Project-Based Voucher (PBV) program allows the Authority to project base up to twenty percent (20%) of the amount of budget authority allocated to the Authority by HUD for the HCV program. At least eighty percent (80%) of the Authority's HCV funding must remain tenant-based.~~

~~Subsequent reductions in budget authority do not require any reduction in the number of PBV units under the AHAP or Housing Assistance Payment (HAP) contract. HUD does not provide additional housing assistance payments or administrative fees for the PBV program.~~

~~Units may be selected in a new construction project, a rehabilitation project, and/or an existing project. The number of units that can be selected is generally limited to twenty five percent (25%) of the units in a building cap. Exceptions to the twenty five percent (25%) general rule are available for units in single family homes (defined as four (4) units or less), and units in a multi-family building that are available for qualifying families. Qualifying families are elderly and/or disabled families and families receiving supportive services.~~

~~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.

## **PART I**

### **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.

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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.

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**23-I.B. Criteria Ffor 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.

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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.

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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”.

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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 ~~does do~~ not fall under

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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

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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

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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 ~~A~~and Requirements

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Notice Procedures

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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

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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

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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

Pre-Housing Assistance Payment (HAP) Contract Requirements

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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**

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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**

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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:

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- (1) the applicable FMR for the unit, based on the bedroom size,
- (2) the reasonable rent as determined by the Authority, or
- (3) the rent requested by the owner.

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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**

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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**

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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.

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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

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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.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2021.~~

~~HUD is waiving these requirements and providing an alternative requirement. HUD is authorizing a PHA at its discretion to keep such units under contract for a period of time that exceeds 180 days but does not extend beyond December 31, 2020. Similarly, with respect to 24 C.F.R. §983.258, HUD is providing that a PHA that adopts the alternative requirement may resume housing assistance payments on behalf of a family residing in such a unit should the family's income change at any point during the period of time covered by the extension. Period of Availability: The period of availability for the extension ends on December 31, 2021.~~

### 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.

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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.

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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.

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Consistency with Tenant-based List

All other mechanics of wait list management will be consistent with the tenant-based wait list.

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**23-I.N. Project-Based Voucher (PBV) PROGRAM LIMIT OLD RULE Exception Categories and Percent Limitation**

The PBV Program will not exceed five percent (5%) of the total number of budgeted units under the Authority's Housing Choice Voucher Program (HCVP).

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"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 as:

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- 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.

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- 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

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(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.

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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.

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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.

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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).

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- Families receiving supportive services as defined by HUD

Funding Objectives and Requirements

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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:

- a) Serve households at or below thirty percent (30%) of the AMI at time of admission to the project.
- b) 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.
- c) Meet the HUD's Housing Quality Standards.
- d) 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

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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

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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

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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

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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:

1. Project location (including street address or addresses) and ownership.
2. Building(s) description(s) and number of housing units requiring project-based assistance, including square footage, bedroom count and bathroom count.
3. Estimated date of availability of units.
4. List of area amenities and services, including playgrounds, public schools, public transportation and access to grocery stores.
5. Operating pro-forma statement and current year operating budget including estimated subsidy.
6. Proposed rent per unit, including indication of which utilities, services and equipment are included in the rent and which ones are excluded.
7. Description of experience in managing and operating similar housing developments.
8. Indicate any recent audit findings regarding the management of similar properties.
9. List all projects the organization currently manages that have project-based assistance or some other income restricted units.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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].

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## Housing Choice Voucher Project Based Program Guidelines

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The Project-Base Voucher (PBV) operates under the same rules (with few exceptions) as the Housing Choice Voucher Program (funding source for PBV).

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### 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 Part 983 of 24 CFR.~~

### 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.

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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.)

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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.

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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

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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

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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.

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This section outlines the responsibilities and obligations of the Authority, the owners/landlords, and the participating families.

Authority Responsibilities

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1. The Authority will comply with the consolidated ACC, HUD regulations and other requirements, and this Administrative Plan.
2. In administering the program, the Authority must:
3. Publish and disseminate information about the availability and nature of housing assistance under the program
4. Explain the program to owners and families
5. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration
6. Affirmatively further fair housing goals and comply with equal opportunity requirements
7. Make efforts to help disabled persons secure satisfactory housing
8. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, certify each selected family, and provide housing information to families selected
9. Determine who can live in the assisted unit at admission and during the family's participation in the program
10. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5
11. 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.
12. Determine the amount of the housing assistance payment for a family.
12. Determine the maximum rent to the owner and whether the rent is reasonable.

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14. Make timely housing assistance payments to an owner in accordance with the HAP contract
15. 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
16. Establish and adjust the utility allowance schedule
17. Administer and enforce the HAP contract with an owner, including taking appropriate action if the owner defaults (i.e., HQS violation)
18. Determine whether to terminate assistance to a participant family for violation of family obligations
19. Conduct informal reviews of certain decisions concerning applicants for participation in the program
20. Conduct informal hearings on certain decisions concerning participant families
21. Provide sound financial management of the program

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#### Owner Responsibilities

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1. 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.
2. The owner is responsible for:
  - a. 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.
3. Renting eligible units solely to eligible PBV families.
4. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
5. Complying with equal opportunity requirements.
6. Preparing and furnishing information required under the HAP contract.
7. Enforcing tenant obligations under the lease.
8. Paying for utilities and services (unless paid by the family under the lease).
9. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
10. Collecting from the family:
  - a. Any security deposit required under the lease;
  - b. The tenant contribution (the part of rent to owner not covered by the housing assistance payment); and
  - c. Any charges for unit damage caused by the family.

#### Obligations of the Family

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This section states the obligations of a participant family under the program.

#### **A:** Supplying required information:

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- 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.

~~B-~~ HQS breach caused by the family: The family is responsible for any HQS breach caused by the family or its guests.

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~~C-~~ 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.

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~~D-~~ Violation of lease: The family may not commit any serious or repeated violation of the lease.

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~~E-~~ 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.

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~~F-~~ Owner Eviction Notice: The family must promptly give the Authority a copy of any owner eviction notice it receives.

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~~G-~~ Use and Occupancy of the Unit:

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- 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.

~~H.~~

~~I.~~

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 ~~make a determination~~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

~~J.A.~~ Interest in the Unit: The family may not own or have any interest in the unit.

~~K.B.~~ 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.

~~L.C.~~ Crime by Family Members: The members of the family may not engage in drug-related criminal activity or other violent criminal activity.

~~M.D.~~ 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

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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 (~~Voucher~~) Size

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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 ~~on the voucher,~~ 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. The Authority may be approved an additional bedroom for medical equipment if the need is verified by a person knowledgeable with the family and the disability need, documented by a health care provider in accordance with PHH Notice 2919-54. 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 Authority must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification, 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**

**GUIDELINES FOR DETERMINING VOUCHER SIZE**  
# of

Voucher Size	Unit Bedrooms Minimum Number	Persons in Household 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

**Overcrowded, Under-Occupied and Accessible Units (PHH-2011-54)**

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The Authority subsidy standards determine the appropriate size unit for the family ~~size and~~ based on composition.

If the Authority determines that a family is occupying a:

- 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);

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- Other project-based housing assistance (i.e. by occupancy of a public housing unit); or
- Tenant based rental assistance under the voucher program.

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Rent

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~~The Authority 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 for each by unit bedroom size with in a project--based assistance site. The amount of the rent may not exceed the lower of the applicable maximum level, as explained below, or the reasonable rent in the light of the rents charged for comparable unassisted units in the area.~~

~~To allow an owner to charge more than the payment standard because the rent is reasonable would result in limiting the families whom would be eligible to live in the unit. Conceivably, a family interested in the unit would be ineligible if the family's portion of the rent exceeded forty percent 40%. The idea of project basing units is to assure affordable housing for families and allowing the owner to have rents higher than the payment standard defeats the assurance of affordable housing.~~

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. during the term of the contract has to be approved by the Authority.~~

The family share of the rent for the project-based voucher units remains at thirty percent (30%) of the adjusted income for rent (subject to the same exceptions in the tenant-based voucher program).

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020 and PHH Notice 2020-13 issued on July 2, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing, consistent with the purposes described under the CARES Act,~~

~~to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to December 31, 2020.~~

~~HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum, the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than the 1-year anniversary date of the owner's certification. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection~~

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#### Annual Recertification/Reexamination

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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.

~~If requested a~~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 ~~re-certifications~~examinations will be the same as the HCV program requirements.

- ~~An eligibility package will be mailed to the resident at least sixty (60) days prior to the recertification month. This package will include all required eligibility forms for the family to review, sign and return within a specific time frame. In addition, the package will provide a list of necessary third party verification(s) needed for continued assistance. If the package is not returned, is incomplete, or the family requests assistance, a follow-up letter, a telephone interview~~

~~or an office interview will be scheduled.~~

### 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.

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### Collection of Information

▲ The Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

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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.

### Requirements

All adult household members will be required to complete and sign the ~~recertification package~~ adult signature pages where applicable.

### Failure to Respond to Notification ~~to Recertify~~

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.

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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 ~~offer the right to them~~ 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~~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

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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.

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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.

~~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 this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the 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 Notice 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, 2020.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV;~~

#### Housing Quality Standards (HQS) Requirement

~~Participating project-based units must meet or exceed HQS prior to entering into a HAP contract. The participating unit must require \$1,000.00 or less in rehabilitation costs to meet HQS in order to be eligible for participation in the project-based existing program.~~

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.

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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:

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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:

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▲ 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.

~~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

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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

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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.

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## 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.

Un-emancipated 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:

Housing Authority of the County of Merced  
Violence Against Women Act (VAWA)

FY 22/23

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- 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:

1. Inform the Authority that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. Provide enough information for the Authority to make a determination 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 documentation from the applicant or tenant. However, any request for additional documentation must:

- a. Be in accordance with the Authority policies or practices,
- b. Not require evidence of the domestic violence, dating violence, sexual assault, or stalking other than as specified in 24 CFR 5.2007., and
- c. 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 effected 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).

**PART I**

**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:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant or lawful occupant living in the household of that individual.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

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- 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.

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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.

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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)

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VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

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**24-I.B. Notification**

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Housing Authority of the County of Merced  
Violence Against Women Act (VAWA)

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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;

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- 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:
  - The 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

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- 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

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- 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.

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- 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
  - A.) 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
  - B.) 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

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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.

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• 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.

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• 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.

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• The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:

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• o 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;

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• o 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

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• o No other documentation is required to qualify the tenant for an emergency transfer.

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• The covered housing provider must make its emergency transfer plan available upon request and, when feasible, must make its plan publicly available.

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• 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. DE. Documentation [24 CFR 5.2007]**

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▲ 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

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24 CFR 5.2009, the covered housing provider may request in writing the applicant or tenant submit within 14 business 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.EF. Time Frame for Submitting Documentation**

If an applicant or tenant does not provide the documentation requested within 14 business 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.

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A covered housing provider may, at its discretion, extend the 14-business-day deadline. During the 14-business 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

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#### 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 program 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

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- o Find alternative housing.
- o 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.

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**24-I.J. Discretion ~~to~~ Require No Formal Documentation [24 CFR 5.2007(d)]**

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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)]**

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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.KF. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

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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

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- o Otherwise applicable by law

#### **24-I.LG. HUD VASH**

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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.MH. VIOLECE AGAINST WOMEN ACT (VAWA) Self-Petitioner Verification Procedures**

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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.

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### Applicability to other VAWA Housing Protections

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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

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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

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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).

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**CHAPTER 25**  
**Shelter Plus Care Program (SPC)**  
**Permanent Supportive Housing (PSH) Program**

**OVERVIEW:**

The Shelter Plus Care Program (S+C) is authorized by Title IV, Subtitle F, of the Stewart B. McKinney Homeless Assistance Act. The purpose of the Program is to create a continuum of care by linking rental assistance for permanent housing with supportive services. Eligible participants are homeless individuals who are seriously mentally ill, have chronic problems with drugs and /or alcohol, or have AIDS and related diseases. Rental assistance grants must be matched in the aggregate by supportive services that are equal in value to the amount of rental assistance and are appropriate to the needs of the targeted population. 24 CFR 582.1

Housing Authority of the County of Merced (Authority) and the Merced County Behavioral Health and Recovery Services (BHRS) will work together to implement the Shelter Plus Care Program. The Authority will administer the rental assistance component and the BHRS will provide the supportive services.

The S+C Program is not governed by the Housing Choice Voucher (HCV) Program, but when specific policies are not defined for the S+C program please refer to the Authority's Administrative Plan.

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## CHAPTER 25

### **25-I.A. Definitions**

Acquired Immunodeficiency Syndrome (AIDS) and related diseases means the disease of AIDS or any condition arising from the etiologic agent for AIDS.

Contract Rent The total monthly rent payable to the owner for the contract unit. The contract rent is the sum of the tenant rent plus the rental assistance paid to the owner by the Authority under the Shelter Plus Care Program.

Homeless or homeless individual includes (1) A family or individual who lacks a fixed, regular, and adequate nighttime residence; and (2) A family or individual who has a primary nighttime residence that is;

- a. A supervised publicly or privately-operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill);
- b. An institution that provides a temporary residence for persons intended to be institutionalized; or
- c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

Occupancy Agreement The lease agreement between the tenant and the landlord that includes the specific provisions of the Shelter Plus Care Program.

Person with disabilities means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment that is expected to be of a lengthy continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions.

A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

1. Is attributable to a mental or physical impairment or a combination of mental and

physical impairments;

2. Is manifested before the person attains age 22;
3. Is likely to continue indefinitely;
4. Results in a substantial functional limitation in three or more of the following areas of major life activity; self- care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;
5. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

The term "person with disabilities" also includes two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being.

Participant means an eligible person who has been selected to participate in Shelter Plus Care.

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HAP Contract. The rental assistance contract between the Authority and the owner. The Authority pays rental assistance payments to the owner in accordance with the HAP Contract.

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Rental Assistance. The Shelter Plus Care Rental Assistance Program. Under this program, HUD provides funds to a non-profit agency for rental assistance on behalf of an eligible participant of the Shelter Plus Care Program. The tenancy under the occupancy agreement will be assisted with rental assistance under the Shelter Plus Care program.

Seriously mentally ill means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

Supportive Services means assistance that:

1. Addresses the special needs of eligible persons; and
2. Provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health treatment, alcohol and other substance abuse services, child care services, case management services, counseling supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care does not qualify as a supportive service.

Tenant Rent. The portion of the contract rent payable by the tenant, as determined by the Authority in accordance with HUD requirements.

Very low income means an annual income not in excess of 50 percent of the median income for the area, as determined by HUD's annual Income Limits.

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**25-I.B. Participant Eligibility**

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1. To be eligible for in the Shelter Plus Care (S+C) program, a person must meet all of the following criteria:
2. Homeless person (and their family, if the family is homeless)
3. Adult person with a serious mental illness and/or:
  - a. Have a chronic problem with alcohol, drugs or both, or
  - b. Have AIDS and related diseases.
4. Very low income
5. Must be willing to participate in appropriate supportive services.

**25.I.BC. Shelter Plus Care**

Program Preference: Seriously Mentally Ill

S+C has established a preference for seriously mentally ill persons and/or chronic problem with alcohol, drugs or both or HIV/AIDS, as a part of the admission procedures for one or more of the statutorily targeted populations. However other eligible disabled homeless persons (who abuse alcohol and substances and persons with AIDS and related diseases but are not seriously mentally ill) must be considered for housing designed for the target population unless the Authority can demonstrate that there is sufficient demand by the target population for the units, and BHRS can determine that the other disabled homeless person(s) would not benefit from the primary supportive services provided.

Participant Records

The Authority will keep participant records. These records will include the participant's race, ethnicity, gender, veteran status and disability status and any other information requested by HUD. The necessary information shall be collected through the completion and submission of the following S+C forms. (24 CFR 582.300(d)(1))

1. Participant Information Sheet. To be completed when participant enters the S+C Program. Both the Authority and BHRS will be responsible for working together to ensure that the required information is collected to facilitate program reporting requirements. A copy of the completed forms will be kept in the participant file. the information will be compiled at the end of the grant year and submitted to the Authority for the Annual Progress Reports (APR).
2. Rent Calculation Form. This form is used to determine the tenant's rental payment, as well as the rental assistance to be paid by the Authority. This form is to be completed by the Authority.
3. Participant Exit or Year End Form. This form must also be completed at the time a participant leaves the S+C program. Completed forms shall be sent to the Authority along with any forms accounting for the security deposit and refunds from the landlords

associated with the security deposit.

Each S+C participant will be required to provide the following certifications or verifications in addition to those required by the HCV program as defined by the Administrative Plan:

1. Documentation of Homelessness;
2. Certification of Serious Mental Illness;
3. Signed S+C Occupancy Agreement;

In addition to the above documents, the following must be kept in the participant's file at the referring Mental Health Agency and made available to the Authority or HUD for review upon request:

1. BHRS assessment, case plan with participant goals.

Participant records are confidential. The Authority and BHRS staff may share information as needed to serve the housing needs of the participants. A release of information is included on the "Participant Referral". Any additional information requested from agencies other than the Authority and BHRS will require a written release of information from the participant.

The Authority will perform criminal background checks and may deny admittance or terminate assistance to any person that engages in or has a history of violent criminal activity or current drug-related activity if not enrolled in an approved substance abuse program. Persons listed on the Sexual Offender Registry **must** be denied admittance to the program.

### **25-I.D. Eligible Activities**

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S+C funds must be used for providing rental assistance for housing occupied by program participants and program administration costs. The housing units may not be currently receiving Federal funding for rental assistance or operating costs under other HUD programs. 24 CFR 582.105(a)

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### Rent Re-determinations

As a condition of participation in the S+C program, each participant must agree to supply the information and documentation necessary to verify the participant's income. Participants must provide the Authority information at any time regarding changes in income. The amount of rental assistance must be re-determined at least annually. A participant may request an interim re-determination if there is a change in family composition or a reduction in the resident's income that may result in an adjustment to a participant's rental assistance. Residents who receive an increase in income need not have their rent increased until the next scheduled (annual) re-determination.

### ~~Occupancy Agreement~~

~~\*This area differs from Section 8 regulations.\*~~

~~Initially, participants must enter into who lease under HAP contract enter into~~ an occupancy agreement for a term of at least one year. The occupancy agreement will be considered automatically renewable upon expiration, except on prior notice by either tenant or landlord/property manager. [see 24 CFR 582.315(a)]

The Occupancy Agreement is not provided by the Authority. The Owner and the participant must provide the lease, and includes all the mandatory provisions for the S+C program.

### **Terms of Agreement**

~~\*This area differs from Sections 8 regulations:~~

~~In addition to standard lease provisions, the occupancy agreement includes a provision requiring the participant to take part in the supportive services provided through the program as a condition of continued occupancy. 24 CFR 582.315(b). See Forms Section, Occupancy Agreement.~~

### **Limitations on Assistance**

~~\*This area differs from Section 8 regulations:~~

~~Current occupants of the real property are not eligible for assistance under the S+C program. Participants must meet the definition of homeless as set forth in the S+C Definitions section of this manual. (See page 1) 24 CFR 582.115(a).~~

### **Nondiscrimination and equal opportunity requirements**

~~\*This area differs from Section 8 regulations:~~

~~S+C may establish a preference as part of their admissions procedures for one or more of the statutorily targeted populations, (i.e. seriously medically ill, alcohol or substance abusers, or persons with AIDS and related diseases.) The population with an established preference is persons who are seriously mentally ill. However, other eligible disabled homeless persons must be considered for housing designed for the target population unless the Authority can demonstrate that there is already sufficient demand by the target population for the units. In addition, BHRS must demonstrate whether or not other eligible disabled homeless persons would benefit from the primary supportive services provided.~~

~~The Authority and BHRS must within the designated population, comply with the requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, disability, gender identity, sexual orientation or marital status.~~

### **25-I.E. Housing Inspections**

HUD requires that the unit be inspected byThe Authority will inspect the units before entering into a Housing Assistance Payment (HAP) contract and any rental assistance will be provided on behalf of a participant. An inspection is required prior to execution of HAP contract and at least annually (or biennially at the Authority's discretion) to ensure compliance with Housing Quality Standards (HQS) under [24 CFR 982.401]. Assistance will not be provided for units that fail to meet the HQS. All deficiencies must be resolved

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and the unit reinspection results in a "pass" status.

Utility Allowances

Utility allowances will be used in the calculation of tenant rent payments if utilities are not included in the rent, as per the Administrative plan.

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**25-I.E. Termination of Assistance to participants**

The Authority may terminate assistance to a participant who violates program requirements or has violated one or more of the family obligations. ~~or conditions of occupancy.~~

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Authority Policy:

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The Authority ~~must will~~ exercise discretion ~~judgment~~ and examine all extenuating circumstances in determining ~~when any violation(s) and the are~~ seriousness of the violation to determine if the Authority must ~~enough to~~ warrant termination.

In partnership with the referring agency, and a HUD Form 92006 signed consent, the Authority will make every effort to communicate housing related matters with the family's case manager. It is a requirement of the SPC grant that the participant is receiving supportive services. ~~so that the participant's assistance is only terminated in the most severe cases.~~ T and the participant's BHRS case ~~manager~~ worker will be consulted throughout the process.

The Authority is not prohibited from resuming assistance to a participant whose assistance has been terminated.

When violations occur and the Authority has grounds for ~~tr~~ terminating assistance, the Authority recognizes the participant's is a person with a disability (as described in the grant) and may need assistance to understand their rights under the program as a reasonable accommodation. ~~right to due process of law.~~

The Authority and the partnering agency providing supportive services will:  
~~The formal process requires that:~~

1. BHRS will notify the Authority of possible adverse action to be taken with a S+C participant.
2. The Authority will consult with BHRS case-~~manager~~ worker of record to determine if BHRS is aware of the situation (or otherwise make them aware of the situation) to and see if they can provide insight and ~~if there come up with~~ is a plan to remedy the situation.

~~The if the~~ S+C participant must be is not in compliance with the BHRS treatment plan. The Authority may require ~~;~~ BHRS ~~will need to~~ provide documentation to support that fact ~~and~~ submit to the Authority for review.

3. ~~If~~ the participant is offered a counseling conference, prior to the Authority Proposing

~~Termination of Eligibility (NTE), the Authority must first contact the case manager to determine if a counseling conference might resolve the matter.~~

~~If agreed, a counseling conference will be held and require the participant and their BHRS case manager be present at the conference to be attended by the participant and the mental health caseworker, to ascertain if the situation can be remedied informally and to assist to explain any applicable terms of resolution or action plan.-~~

4. If the situation cannot be remedied at the counseling conference, or the conference is not attended, the participant will receive written notice that includes ~~a clear statement of~~ the reasons for termination.

~~A. The Authority will send the participant and Landlord a proposed Notice of Contract Termination and a copy will be forwarded to the BHRS case manager for their record. Send the following to the participant and BHRS worker and with keep a copy placed in the participant file.~~

~~A) The participants notice will include the notice proposing to terminate rental assistance and Notice of the of, Right to Review of Adverse Decision, Request Informal Hearing;~~

~~B) The Landlord will only receive an information notice advising of the Authority proposal to terminate assistance for violation of the family obligations (further detail is not provided). This serves as a 30-Day notice of Termination should the participant fail to resolve, or fails to request an informal hearing; and~~

- ~~Proposed Termination of HAP contract with the effective date HAP will be terminated if no resolution is made.~~

~~C) The case manager will be provided copies of all correspondence related to the matter to be placed in the participants file.~~

~~i.~~

~~ii. Termination of HAP Contract or Occupancy Agreement~~

~~b. Send the following to the landlord:~~

~~i. Notice of Change to Occupancy Agreement~~

5. If ~~the Right to Review of Adverse Decision is returned requesting a review of the decision, the S+C Eligibility Specialist will schedule the participant requests an informal hearing with the Hearing Officer in the Authority, a Hearing Appointment letter will be sent within ten (10) days from receipt of the participants request being received.~~ A letter will be sent to the participant of the date and time of the Hearing and a copy of the letter to the BHRS caseworker~~manager~~.

6. The participant ~~will be is~~ given the opportunity at the ~~informal~~ hearing to present written or oral objections before the Hearing Officer, who is a person other than the person (or subordinate of that person) who made or approved the termination decision.

7. Prompt written notice of the final decision is sent to the participant within 30 days of

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the hearing.

~~**S+C Advisory Board with Homeless Representatives**~~

~~The Homeless Coordination Network, which serves as the S+C Advisory Board, shall consist of at least one homeless individual or formerly homeless individual, the Authority staff, BHRS staff, and the seven regional homeless council or coalition representatives. This body shall meet no less than bi-annually to consider and recommend changes to S+C Policy and Procedures Manual and forms. The individuals representing the homeless or formerly homeless population may be participants in the S+C program. This would **not** constitute a conflict of interest under Section 582.215. 24 CFR 582.300(a)~~

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~~**25-I.F. Other Opportunities for the Participation of Homeless Individuals**~~

To the maximum extent practicable, the program must involve homeless individuals and families through the following opportunities:

- 1. Employment,
- 2. Volunteer services,
- 3. In constructing or rehabilitating housing
- 4. And in providing supportive services.

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~~**25-I.G. Documenting Supportive Services**~~

HUD requires that rental assistance funds must be matched by the value of supportive services. Appropriate supportive services will be provided by BHRS and other service providers as needed.

Quarterly reports are required from the BHRS and submitted to Authority to track the value of the supportive services to ensure that S+C is meeting the matching requirement.

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~~**Outreach Activities (Authority)**~~

Outreach activities are considered to be supportive services and can be included in meeting the matching requirements. Best efforts must be made to ensure that eligible hard-to-reach persons are served by S+C. Outreach will be primarily directed toward eligible persons who are living in an Emergency Shelter or a public or private place not ordinarily used as regular sleeping accommodation for human beings (e.g. persons living in cars, streets, river banks and parks). 24 CFR 582.325

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~~**BHRS will provide outreach for the Shelter Plus Care Program through:**~~

- 1. Referrals from community organizations serving the homeless population;
- 2. BHRS staff will visit river banks, parks, bridges, streets and hotels and shelters that provide temporary shelter.

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~~**On Going Assessments for Participants (BHRS)**~~

The program will provide an ongoing assessment of housing and supportive services

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required by participants. Appropriate adjustments will be made as needed to best serve the participants. BHRS will make note of changes made to the participant's case plan or goals made during the 120- and 240-day reviews, as well as any other time a change occurs. The information will be kept in the participant's file at BHRS and be made available to the Authority or HUD for review upon request. [24 CFR 582.300(b)(c)(d)].

## 25-I.H. Procedures

### Referral Process

Referrals to the Shelter Plus Care Program are made via the Authority approved "Participant Referral Form" that originates from BHRS. The ~~shaded boxes on the form are~~ must be exclusively the responsibility of BHRS. BHRS will maintain a log of consumers referred to the Authority.

To facilitate open communication between the Authority and BHRS, both agencies will indicate the name and phone number of the worker assigned to the participant.

### The Participant Referral Form includes:

1. A Release of Information to be signed by the applicant for the Shelter Plus Care Program and an agreement to participate in supportive services. BHRS will collect the applicant's signature prior to referring them to the Authority.

2. A Certification of Serious Mental Illness determining the mental health status of the applicant is the first step in the referral process. This form will be signed by one of BHRS's Designated Examiners, after it is determined that the applicant is seriously mentally ill and qualifies for supportive services.

3. A Treatment Plan Certification to be signed by the BHRS representative stating the existence of a current signed case/treatment plan and the agreement for ongoing assessments of the plan.

4. Other Eligibility Criteria and the Supportive Documentation required for the rental assistance application (if applicable). This section is to be completed by BHRS. The Authority will need the corresponding documentation to determine the applicant's eligibility for Shelter Plus Care.

5. The Sources of Referral to the Shelter Plus Care Program. This section will be completed by the referring agency. This information is required for HUD reporting.

6. Certifications of Other Qualifying Disabilities (if applicable). This section is to ensure that other eligible homeless disabled persons are considered in accordance with program requirements. This section only needs to be completed by BHRS if it is determined that the applicant does NOT have a serious mental illness, but may qualify under other disabled populations to be served.

~~7. **Sufficient Demand Certification** the Authority is responsible for determining whether or not there is sufficient demand for program units from homeless mentally ill.~~

8. Benefit from Support Services BHRS will determine whether or not the applicant will benefit from the primary mental health services required.

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If the applicant does not meet the requirements and is not selected to participate in the Shelter Plus Care program, he or she will be referred to the HCV Program.

**Documentation to be provided by BHRS at time of Referral to the Shelter Plus Care Program.**

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To facilitate the application process BHRS ~~must~~will provide the following documentation at the time of referral to the Authority:

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1. Documentation of Homelessness (Application)
2. Certification of Serious Mental Illness
3. Statement of No Income (if applicable)
4. Participant Information Sheet
5. A Copy of BHRS's case plan, including the participant's goals, is to be kept by the referring agency and made available for review if requested. (For HUD monitoring only.)
6. BHRS will also assist the Authority in obtaining the other needed verifications, such as income, childcare and medical expenses.

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**Admission and Application Process**

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After the Authority receives a completed Participant Referral from BHRS, the Authority staff will arrange an appointment with the BHRS Case Manager and the applicant to complete an application for S+C Rental Assistance. A BHRS Case Manager or other assigned staff may assist the applicant in completing the eligibility process.

As a condition of participation in the S+C program, each participant must agree to supply the information or documentation necessary to verify the participant's income. Participants must notify the Authority of changes in income or other circumstances that may result in changes to a participant's rental payment and are subject to changes in tenant payments as outlined in the Administrative Plan.

The Authority will mail all written notices to the applicant/participant, as well as the BHRS caseworker. Participant will notify the Authority of any changes in income or other circumstances. BHRS will also notify the Authority of any known changes in the applicant's/participant's income, household composition, mental health care plan or other circumstances deemed appropriate.

Third party verification will be used. When third party verification cannot be obtained, file documentation must be provided as to why another method was used.

**Eligibility Determination**

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Eligibility is determined by the Authority after the completion of the application, the submission of the required certifications and documentation. Applicants must meet all the eligibility criteria as outlined in this manual.



Determining Annual Income

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Income of participants must be calculated in accordance with [24 CFR 5.609 and 5.611(a)] and NOTICE CPD 96-03 in which the family's anticipated annual income from all sources must be considered and as per the Administrative Plan.

The Authority must examine a participant's income initially, and at least annually, to determine the amount of rent payable by the participant. Interim adjustments due to income/family composition changes will be made in accordance with the Administrative Plan.

Adjustments to Gross Income

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The following adjustment will be made to the family's gross annual income to obtain the adjusted monthly income. The monthly adjusted income is determined by taking the annual income less the following applicable deductions divided by 12. (See SC04)

~~1. Deduct \$400.00 annually for the household whose head or co-head is elderly or disabled. Only one deduction of this type is allowed per household.~~

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~~2. Deduct \$480.00 for each member of the household (not including the head of household or spouse) who is under 18 years of age or who is 18 years of age or older and is disabled or a full-time student.~~

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~~3. Deduct the medical expenses of all household members by using the formula below. Medical expenses are expenses that are anticipated to be incurred during the 12 months following certification or re-certification that are not covered by an outside source. The allowable medical deduction is that portion of total medical expenses that are in excess of 3% of the annual income. The deduction is calculated by multiplying the annual income by .03 to determine the 3% threshold and then subtracting the 3% threshold amount from the verified medical expenses. Medical expenses are to be verified by the following documentation:~~

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~~a. Third party verification from a physician, hospital, clinic, dentist and/or pharmacist that includes an estimate of medical cost to be incurred over the next twelve months (but not covered by insurance) and the regular payments expected to be made on outstanding bills.~~

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~~b. Health insurance premiums can be verified either by the insurance company or the employer through third party verifications. The Social Security Administration can verify insurance premium costs of Medicare paid by the applicant and not reimbursed by a public agency.~~

~~e.a. Receipts and statements itemizing anticipated medical expenses may only be allowed for out of pocket non-prescription expenses.~~

~~4. Deduct for child care expense, if necessary to enable a household member to be gainfully employed or to further their education. In order for the expense to be allowable~~

~~the child needing care must be under the age of 13 or disabled. The verification of child care expense must include written third party verification from the source providing the care indicating the amount of payments, hours of care, names of the children, frequency of payment, and whether or not care is necessary for the employment or education of the parent. Verification also includes third party verification of reimbursements from the Merced County Office of Education (A.C.C.E.S.S.) if applicable.~~

Zero Income

Participants who have no income when they enter the Shelter Plus Care Program can self-certify by completing a "Statement of No Income". The Authority may verify the information with the mental health worker assigned to the participant. A Statement of Survival for each month and a zero-income statement shall be submitted every ninety days. These statements will be reviewed and, if necessary, an explanation, in writing, requested of the ratio of expenses to income and the source of income for the expenses.

Rent Calculations:

The formula to determine the tenant's payment as well as the amount of rental assistance is:

~~Contract Rent Less Total Tenant Payment equals Rental Assistance.~~

The Contract Rent is the total monthly rent payable to the owner for the contract unit. The contract rent is the sum of the tenant's rent plus the rental assistance paid to the owner by the Authority under the Shelter Plus Care Program. The Contract rent shall not exceed the Fair Market Rent (FMR) of the geographic area and is negotiated with the owner and stated in the HAP contract.

Total Tenant Payment (TTP)

Tenant rent calculations will be made in accordance with section 3(a)(1) of the US Housing Act of 1937 which is the greater of:

- 1. 30 percent of the family's monthly adjusted income; or
- 2. 10 percent of the family's monthly income.

The total tenant rent is calculated as per the formula in the Rent Calculation Section, as well as the Rent Calculation form.

Rental Assistance Payments

The rental assistance payments are made by the Authority on behalf of the Shelter Plus Care participant directly to the owner/landlord. The amount is determined by the formula identified in "Rent Calculations" of the procedures section and the Rent Calculation form.

~~The Authority will has developed a system to facilitate the payment of monthly rental assistance payments under the Shelter Plus Care Program and complete the form to draw Down applicable funds from the S+C grant for HAP and Administrative fees.-~~

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~~During the initial month of admission, and every subsequent month that the participant is on the program, the Authority S+C Eligibility Specialist will complete a "Funds Draw Request Sheet (FDRS)" and forward it to the accounting department for further processing.~~

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~~The FDRS requires the signature of the S+C Eligibility Specialist prior to processing. Eligibility Specialist will prepare a voucher to start the payment process that will begin manual monthly payments to the owner/landlord indicated on the "Draw Request Form". The vouchers are forwarded the accounting department for processing the payments. The individual grant program year starts when the accounting office makes the first draw request to HUD through the LOCCS system. When a unit is vacated and a security deposit initially paid to the landlord by the Authority is returned, the refunds are sent to the accounting department to deposit into the specific S+C grant in LOCCS. When the Section 8 coordinator processes the next month's draw the amount is shown on the LOCCS sheet as a deduction from the total of the receipts processed for that grant for the month.~~

Any changes made to a participant's portion of the rent or rental assistance payments, should be noted on the draw request form along with the effective date of the action.

#### **25-I.J. Overpayments**

The Authority will recapture overpayments to owner/landlords ~~(regardless of the reason for the error)~~ by withholding the overpayment from subsequent rental assistance payments with written notice to the owner. The Authority will prepare a revised "Rent Calculation Form indicating the reason for the change, the adjusted amount to be paid and the duration of the reduced payment. This shall be kept in the participant file.

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~~If the owner no longer has a rental unit under the Shelter Plus Care Program When the contract terminates, the Owner, he or she will be notified of the any amount owed for an overpayment due to the program and that the monies must be the returned re-payment that is to be made to the Authority. If this remedy proves unsuccessful the Authority will begin collection proceedings.~~

#### Rent Reasonableness

Rental assistance will only be provided for a unit for which the rent is determined to be reasonable. It is the responsibility of the Authority to determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units ~~by reviewing the "rent comp" books~~ for the area.

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#### **25-I.K. Briefing Sessions**

Upon the successful completion of the application process and a determination of eligibility, the Authority will schedule a voucher briefing (Reasonable Accommodation if requested, ~~an~~ individualized "briefing session" for the participant and their case manager (or other designated person may be approved). During the briefing ~~session~~, the Authority ~~staff~~ will provide guidance in how to locate appropriate housing, furnish referrals to known units for

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rent and provide a list of potential landlords who currently lease or have expressed an interest in leasing units through the Authority. Each participant will receive a packet of information intended for potential landlords.

The briefing session will also include information regarding annual re-determinations, the requirement to participate in supportive services as a condition of continued occupancy, the need to report any changes in income/family composition to the Authority and an explanation of both the Tenant and Landlords duties as per the S+C Occupancy Agreement.

**Selection of Housing Units**

The program utilizes the tenant-based rental assistance (TRA) component in which participants are permitted to choose housing of an appropriate size in which to reside. The unit selected must meet Housing Choice Voucher Program (HCVP), formerly known as Section 8 guidelines for Housing Quality Standards (HQS) and allow for the provision of supportive services.

BHRS case workers may assist participants in the housing search and selection process.

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**Execution of the Occupancy Agreement**

Once the unit is selected, the Authority will physically inspect to determine if the unit meets the required HQS. Assistance will not be provided for units that fail to meet the HQS. Once the unit passes HQS, the occupancy agreement can then be executed. The occupancy agreement will be prepared by the Authority, and must be signed by both the tenant and the landlord before HAP payments may commence.

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**25-I.L. Execution of the HAP Contract**

Once the unit has passed inspection and the occupancy agreement has been signed, the Authority will execute the Housing Assistance Payment (HAP) Contract. One signed copy will be given to the owner. The HAP contract must be executed by the Authority before any payments are made to the owner on behalf of the participant.

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**25-I.M. When Participant Leaves the Program**

The Eligibility Specialist completes the "Participant Exit Form" and sends a copy to the BHRS worker. They must also document the exit on the tracking form for the end of the year statistical report as required by HUD.

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**25-I.N. Calculating the value of Supportive Services**

The value of supportive services will be calculated in the following ways:

1. Salaries paid to staff of BHRS to provide supportive services to participants. This information may be documented on the "Supportive Service Report" and submitted to the Authority. The Authority staff will document hours spent on the project.

2. The value of supportive services provided by other persons or organizations to participants. BHRS will submit quarterly printouts of the billings by participants and submit as documentation of the required supportive service match to the Authority. Outreach and volunteer services will be documented by utilizing the "Supportive Services Report".

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3. The cost of outreach activities. [24 CFR 582.110(c)]

4. Supportive services provided by agencies other than the Authority and BHRS will be asked to submit a statement indicating the cost of their services based on the individual participant's case plan. The documentation should reflect an hourly cost as well as the number of hours of service provided to the participant during the month.

Report From BHRS

BHRS caseworkers will submit a quarterly supportive services report to the Authority.

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**Housing Authority of the County of Merced**

**Admissions and Continued Occupancy  
Procedure (ACOP)  
For the Public Housing Program**



**Revision Date: October 1,  
~~2021~~2022**



**TABLE OF CONTENTS**

**CHAPTER 1**

**OVERVIEW OF THE PROGRAM AND PLAN**

INTRODUCTION ..... 1-1

**PART I: THE HOUSING AUTHORITY**

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

I.B. ORGANIZATION AND STRUCTURE OF THE HOUSING AUTHORITY ..... 1-1

I.C. HOUSING AUTHORITY MISSION ..... 1-2

I.D. THE HOUSING AUTHORITY’S COMMITMENT TO ETHICS AND SERVICE ..... 1-2

**PART II: THE PUBLIC HOUSING PROGRAM**

II.A. OVERVIEW AND HISTORY OF THE PROGRAM ..... 1-3

II.B. PUBLIC HOUSING PROGRAM BASICS ..... 1-3

II.C. PUBLIC HOUSING PARTNERSHIPS ..... 1-4

II.D. APPLICABLE REGULATIONS ..... 1-6

**PART III: ADMISSIONS AND CONTINUED OCCUPANCY POLICIES**

III.A. OVERVIEW AND PURPOSE OF THE PROCEDURE ..... 1-6

III.B. CONTENTS OF THE PROCEDURE ..... 1-7

III.C. UPDATING AND REVISING THE PROCEDURE ..... 1-9

**CHAPTER 2**

**FAIR HOUSING AND EQUAL OPPORTUNITY**

INTRODUCTION ..... 2-1

**PART I: NONDISCRIMINATION**

I.A. OVERVIEW ..... 2-1

I.B. NONDISCRIMINATION ..... 2-2

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

I.A. OVERVIEW ..... 2-4

I.B. DEFINITION OF REASONABLE ACCOMODATION .....	2-4
I.C. REQUEST FOR A REASON ACCOMODATION .....	2-5
I.D. VERIFICATION OF DISABILITY.....	2-6
I.E. APPROVAL/DENIAL OF A REQUESTED REASONABLE ACCOMODATION .....	2-7
I.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS .....	2-8
II.G. PHYSICAL ACCESSIBILITY .....	2-9
II.H. DENIAL OR TERMINATION OF ASSISTANCE.....	2-9
<b>PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS EITH LIMITED ENGLISH PROFICIENCY (LEP)</b>	
III.A. OVERVIEW.....	2-10
III.B. ORAL INTERPRETATION.....	2-11
III.C. WRITTEN TRANSLATION .....	2-11
III.D. IMPLEMENTATION PLAN .....	2-11
<b>EXHIBITS</b>	
2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAW.....	2-13

**CHAPTER 3**

**ELIGIBILITY**

INTRODUCTION .....	3-1
<b>PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS</b>	
I.A. OVERVIEW .....	3-1
I.B. FAMILY AND HOUSEHOLD .....	3-2
I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY .....	3-3
I.D. HEAD OF HOUSEHOLD.....	3-4
I.E. SPOUSE, COHEAD AND OTHER ADULTS .....	3-4
I.F. DEPENDENT .....	3-4
I.G. FULL-TIME STUDENT .....	3-5



I.H. ELDERLY AND NEAR-ELDERLY PERSONS, ELDERLY AND NEAR FAMILY ..... 3-5  
 I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY ..... 3-6  
 I.J. GUESTS ..... 3-6  
 I.K. FOSTER CHILDREN AND FOSTER ADULTS ..... 3-7  
 I.L. ABSENT FAMILY MEMBERS ..... 3-7  
 I.M. LIVE-IN AIDE ..... 3-9

**PART II: BASIC ELIGIBILITY CRITERIA**

II.A. INCOME ELIGIBILITY AND TAGETING ..... 3-10  
 II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS ..... 3-11  
 II.C. SOCIAL SECURITY NUMBERS ..... 3-14  
 II.D. FAMILY CONSENT TO RELEASE OF INFORMATION ..... 3-16

**PART III: DENIAL OF ADMISSION**

III.A. OVERVIEW ..... 3-16  
 III.B. REQUIRED DENIAL OF ADMISSION ..... 3-17  
 III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION ..... 3-18  
 III.D. SCREENING ..... 3-23  
 III.E. CRITERIA FOR DECIDING TO DENY ADMISSION ..... 3-27  
 III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC  
 VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING ..... 3-29  
 III.G. NOTICE OF ELIGIBILITY OR DENIAL ..... 3-29

**EXHIBITS**

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES ..... 3-31

**CHAPTER 4**

**APPLICATIONS, WAITINGLIST AND TENANT SELECTION**

INTRODUCTION ..... 4-1

**PART I: THE APPLICATION PROCESS**

I.A. OVERVIEW ..... 4-2  
 I.B. APPLYING FOR ASSISTANCE ..... 4-2

I.C. ACCESSIBILITY OF THE APPLICATION PROCESS .....	4-3
I.D. PLACEMENT ON THE WAITING LIST.....	4-3

**PART II: MAGING THE WAITINGLIST**

II.A. OVERVIEW .....	4-4
II.B. ORGANIZATION OF THE WAITING LIST .....	4-4
II.C. OPENING AND CLOSING OF THE WAITING LIST.....	4-5
II.D. FAMILY OUTREACH .....	4-6
II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES .....	4-7
II.F. UPDATING THE WAITING LISR.....	4-7

**PART III: TENANT SELECTION**

III.A. OVERVIEW.....	4-8
III.B. SELECTION METHOD.....	4-9
III.C. NOTIFICATION OF SELECTION .....	4-16
III.D. THE APPLICATION INTERVIEW .....	4-17
III.E. FINAL ELIGIBILITY DETERMINATION .....	4-19

**CHAPTER 5**

**OCCUPANCY STANDARDS AND UNIT OFFERS**

INTRODUCTION .....	5-1
--------------------	-----

**PART I: OCCUPANCY STANDARDS**

I.A. OVERVIEW .....	5-1
I.B. DETERMINING UNTI SIZE.....	5-1
I.C. EXCEPTIONS TO OCCUPANCY STANDARDS.....	5-2

**PART II: UNIT OFFERS**

II.A. OVERVIEW .....	5-3
II.B. NUMBER OF OFFERS.....	5-4
II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL .....	5-4
II.D. REFUSALS OF UNTI OFFERS.....	5-4
II.E. ACCESSIBLE UNITS.....	5-5

**CHAPTER 6**

**INCOME AND RENT DETERMINATIONS**

INTRODUCTION ..... 6-1

**PART I: ANNUAL INCOME**

I.A. OVERVIEW ..... 6-1  
I.B. HOUSEHOLD COMPOSITION AND INCOME ..... 6-2  
I.C. ANTICIPATING ANNUAL INCOME ..... 6-4  
I.D. EARNED INCOME ..... 6-5  
I.E. EARNED INCOME DISALLOWANCE ..... 6-8  
I.F. JOBS PLUS EARNED INCOME DISREGARD (JPEID) ..... 6-11  
I.G. BUSINESS INCOME ..... 6-11  
I.H. ASSETS ..... 6-12  
I.I. PERIODIC PAYMENTS ..... 6-19  
I.J. PAYMENTS IN LIEU OF EARNINGS ..... 6-20  
I.K. WELFARE ASSISTANCE ..... 6-20  
I.L. PERIODIC AND DETERMINABLE ALLOWANCES ..... 6-22  
I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME ..... 6-22

**PART II: ADJUSTED INCOME**

II.A. INTRODUCTION ..... 6-26  
II.B. DEPENDENT DEDUCTION ..... 6-27  
II.C. ELDERLY OR DISABLED FAMILY DEDUCTION ..... 6-27  
II.D. MEDICAL EXPENSES DEDUCTION ..... 6-27  
II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION ..... 6-28  
II.F. CHILD CARE EXPENSE DEDUCTION ..... 6-30  
II.G. PERMISSIVE DEDUCTIONS ..... 6-33

**PART III: CALCULATING RENT**

III.A. OVERVIEW OF INCOME BASED RENT CALCULATIONS ..... 6-33  
III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT ..... 6-35  
III.C. UTILITY ALLOWANCES ..... 6-38

III.D. PRORATED RENT FOR MIXED FAMILIES ..... 6-39  
 III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS ..... 6-40

**CHAPTER 7**

**VERIFICATION**

INTRODUCTION ..... 7-1

**PART I: GENERAL VERIFICATION REQUIREMENTS**

I.A. FAMILY CONSENT TO RELEASE OF INFORMATION ..... 7-1  
 I.B. METHODS OF VERIFICATION AND TIME ALLOTTED ..... 7-3

**PART II: VERIFYING FAMILY INFORMATION**

II.A. VERIFICATION OF LEGAL IDENTITY ..... 7-8  
 II.B. DISCLOSURE OF SOCIAL SECURITY NUMBERS ..... 7-8  
 II.C. DOCUMENTATION OF AGE ..... 7-10  
 II.D. FAMILY RELATIONSHIPS ..... 7-10  
 II.E. VERIFICATION OF STUDENT STATUS ..... 7-11  
 II.F. DOCUMENTATION OF DISABILITY ..... 7-11  
 II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS ..... 7-12  
 II.H. VERIFICATION OF PREFERENCE STATUS ..... 7-16

**PART III: VERIFYING INCOME AND ASSETS**

III.A. EARNED INCOME ..... 7-16  
 III.B. BUSINESS AND SELF EMPLOYMENT INCOME ..... 7-16  
 III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS ..... 7-17  
 III.D. ALIMONY OR CHILD SUPPORT ..... 7-18  
 III.E. ASSETS AND INCOME FROM ASSETS ..... 7-19  
 III.F. NET INCOME FROM RENTAL PROPERTY ..... 7-19  
 III.G. RETIREMENT ACCOUNTS ..... 7-20  
 III.H. INCOME FROM EXCLUDED SOURCES ..... 7-20  
 III.I. ZERO ANNUAL INCOME STATUS ..... 7-20

**PART IV: VERIFYING MANDATORY DEDUCTIONS**

IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS ..... 7-21

IV.B. MEDICAL EXPENSE DEDUCTION .....	7-21
IV.C. DISABILITY ASSISTANCE EXPENSES .....	7-22
IV.D. CHILD CARE EXPENSES .....	7-23

**CHAPTER 8**

**LEASING AND INSPECTIONS**

INTRODUCTION .....	8-1
--------------------	-----

**PART I: LEASING**

II.A. OVERVIEW .....	8-2
II.B. LEASE ORIENTATION.....	8-2
II.C. EXECUTION OF LEASE .....	8-3
II.D. MODIFICATIONS TO THE LEASE .....	8-3
II.E. SECURITY DEPOSITS.....	8-5
II.F. PAYMENTS AND CHARGES UNDER THE LEASE.....	8-6

**PART II: INSPECTIONS**

III.A. OVERVIEW.....	8-7
III.B. TYPES OF INSPECTIONS .....	8-8
III.C. NOTICE OF ENTRY OF DWELLING UNIT DURING TENANCY .....	8-9
III.D. RESIDENT AND HOUSING AUTHORITY RIGHTS AND OBLIGATIONS REGARDING NOTIFICATION OF EMERGENCY AND NON-EMERGENCY REPAIRS .....	8-10
III.E. INSPECTION RESULTS.....	8-14

**CHAPTER 9**

**REEXAMINATIONS**

INTRODUCTION .....	9-1
--------------------	-----

**PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS**

I.A. OVERVIEW .....	9-1
I.B. SCHEDULING ANNUAL REEXAMINATIONS .....	9-2
I.C. CONDUCTING ANNUAL REEXAMINATIONS.....	9-3
I.D. EFFECTIVE DATES.....	9-6

**PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS**

II.A. OVERVIEW .....9-8  
II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION.....9-8  
II.C. REEXAMINATION OF FAMILY COMPOSITION (“FLAT RENT ANNUAL UPDATE”) .9-9

**PART III: INTERIM REEXAMINATIONS**

III.A. OVERVIEW ..... 9-13  
III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION ..... 9-13  
III.C. CHANGES AFFECTING INCOME OR EXPENSES ..... 9-15  
III.D. PROCESSING THE INTERIM REEXAMINATION..... 9-16

**PART IV: RECALCULATING TENANT RENT**

IV.A. OVERVIEW ..... 9-17  
IV.B. CHANGES IN UTILITY ALLOWANCES ..... 9-18  
IV.C. NOTIFICATION OF NEW TENANT RENT..... 9-18  
IV.D. DISCREPANCIES..... 9-18

**CHAPTER 10**

**PET OWNERSHIP**

INTRODUCTION ..... 10-1

**PART I: ASSISTANCE ANIMALS**

I.A. OVERVIEW ..... 10-1  
I.B. APPROVAL OF ASSISTANCE ANIMALS ..... 10-2  
I.C. CARE AND HANDLING..... 10-3

**PART II: PET POLICIES FOR ALL DEVELOPMENTS**

II.A. OVERVIEW ..... 10-3  
II.B. MANAGEMENT APPROVAL OF PETS ..... 10-3  
II.C. STANDARDS FOR PETS ..... 10-5  
II.D. PET RULES..... 10-6

**PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS**

III.A. OVERVIEW ..... 10-9  
III.B. PET DEPOSITS..... 10-10

III.C. OTHER CHARGES ..... 10-10

**PART IV: PET DEPOSITS AND FEES IN FAMILY/GENERAL OCCUPANCY DEVELOPMENTS**

IV.A. OVERVIEW ..... 10-11

IV.B. PET DEPOSITS ..... 10-11

IV.C. OTHER CHARGES ..... 10-12

**CHAPTER 11**

**COMMUNITY SERVICE**

INTRODUCTION ..... 11-1

**PART I: COMMUNITY SERVICE REQUIREMENT**

I.A. OVERVIEW ..... 11-1

I.B. REQUIREMENTS ..... 11-1

I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE ..... 11-5

I.D. DOCUMENTATION AND VERIFICATION ..... 11-7

I.E. NONCOMPLIANCE ..... 11-9

**PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

II.A. OVERVIEW ..... 11-10

**EXHIBITS**

11-1 DEFINITION OF A PERSON WITH DISABILITY UNDER SOCIAL SECURITY ACTS  
216(I)(L) AND SECTION 1614 (EXCERPT) FOR PURPOSES OF EXEMPTION FROM  
COMMUNITY SERVICE ..... 11-11

**CHAPTER 12**

**TRANSFER PROCEDURE**

INTRODUCTION ..... 12-1

**PART I: EMERGENCY TRANSFERS**

I.A. OVERVIEW ..... 12-1

I.B. EMERGENCY TRANSFERS ..... 12-1

I.C. EMERGENCY TRANSFER PROCEDURES ..... 12-2

**PART II: HOUSING AUTHORITY REQUIRED TRANSFERS**

II.A. OVERVIEW ..... 12-3  
II.B. TYPES OF HOUSING AUTHORITY REQUIRED TRANSFERS ..... 12-3  
II.C. ADVERSE ACTION ..... 12-5

**PART III: TRANSFERS REQUESTED BY TENANTS**

III.A. OVERVIEW ..... 12-5  
III.B. TYPES OF RESIDENT REQUESTED TRANSFERS ..... 12-5  
III.C. ELIGIBILITY FOR TRANSFER ..... 12-6  
III.D. SECURITY DEPOSITS ..... 12-6  
III.E. COST OF TRANSFER ..... 12-7  
III.F. HANDLING OF REQUESTS ..... 12-7

**PART IV: TRANSFER PROCESSING**

IV.A. OVERVIEW ..... 12-7  
IV.B. TRANSFER LIST ..... 12-7  
IV.C. TRANSFER OFFER PROCEDURE ..... 12-8  
IV.D. GOOD CAUSE FOR UNIT REFUSAL ..... 12-9  
III.E. DECONCENTRATION ..... 12-9  
III.F. REEXAMINATION POLICIES FOR TRANSFERS ..... 12-9

**CHAPTER 13**

**LEASE TERMINATIONS**

INTRODUCTION ..... 13-1

**PART I: TERMINATION BY TENANT**

I.A. TENANT CHOOSES TO TERMINATE THE LEASE ..... 13-2

**PART II: TERMINATION BY HOUSNG AUTHORITY - MANDATORY**

II.A. OVERVIEW ..... 13-2  
II.B. FAILURE TO SUPPLY INFORMATION AND/OR PROVIDE CONSENT ..... 13-2  
II.C. FAILURE TO DOCUMENT CITIZENSHIP ..... 13-2  
II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION ..... 13-3  
II.E. FAILURE TO ACCEPT THE HOUSING AUTHORITY'S OFFER OF A LEASE



REVISION..... 13-4

II.F. METHAMPHETAMINE CONVICTION..... 13-4

II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS ..... 13-4

II.H. DEATH OF A SOLE FAMILY HOUSEHOLD MEMBER ..... 13-4

**PART III: TERMINATION BY HOUSING AUTHORITY – OTHER AUTHORIZED REASONS**

III.A. OVERVIEW..... 13-5

III.B. MANDATORY LEASE PROVISIONS ..... 13-5

III.C. OTHER AUTHORIZED REASONS FOR TERMINATION ..... 13-10

III.D. ALTERNATIVES TO TERMINATION OF TENANCY..... 13-13

III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY ..... 13-13

**PART IV: NOTIFICATION REQUIREMENTS. EVICTION PROCEDURES AND RECORD KEEPING**

IV.A. OVERVIEW ..... 13-15

IV.B. CONDUCTING CRIMINAL RECORDS CHECKS ..... 13-15

IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY ..... 13-16

IV.D. LEASE TERMINATION NOTICE..... 13-16

IV.E. EVICTION..... 13-18

IV.F. NOTIFICATION TO POST OFFICE ..... 13-18

IV.G. RECORD KEEPING ..... 13-19

**CHAPTER 14**

**GRIEVANCES AND APPEALS**

INTRODUCTION ..... 14-1

**PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS**

I.A. OVERVIEW ..... 14-1

I.B. INFORMAL HEARING PROCESS ..... 14-1

**PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS ..... 14-3

**PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS**

III.A. REQUIREMENTS..... 14-6

III.B. DEFINITIONS .....	14-7
III.C. APPLICABILITY .....	14-8
III.D. INFORMAL SETTLEMENT OF GRIEVANCE.....	14-9
III.E. PROCEDURES TO OBTAIN A HEARING .....	14-9
III.F. SELECTION OF HEARING OFFICER .....	14-10
III.G. PROCEDURES GOVERNING THE HEARING.....	14-11
III.H. DECISION OF THE HEARING OFFICER/PANEL .....	14-14

**CHAPTER 15**

**PROGRAM INTEGRITY**

INTRODUCTION .....	15-1
--------------------	------

**PART I: PREVENTING, DETECTING, AND INVESTIGATING, ERRORS AND PROGRAM ABUSE**

I.A. PREVENTING ERRORS AND PROGRAM ABUSE .....	15-1
I.B. DETECTING ERRORS AND PROGRAM ABUSE .....	15-2
I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE .....	15-3

**PART II: VERIFYING FAMILY INFORMATION**

II.A. UNDERPAYMENT OR OVERPAYMENT .....	15-4
II.B. FAMILY CAUSED ERRORS AND PROGRAM ABUSE .....	15-5
II.C. HOUSING AUTHORITY CAUSED ERRORS OR PROGRAM ABUSE .....	15-6
II.D. CRIMINAL PROSECUTION .....	15-7
II.E. FRAUD AND PROGRAM ABUSE RECOVERY .....	15-8

**CHAPTER 16**

**PROGRAM ADMINISTRATION**

INTRODUCTION .....	16-1
--------------------	------

**PART I: SETTING UTILITY ALLOWANCES**

I.A. OVERVIEW .....	16-1
I.B. UTILITY ALLOWANCES .....	16-1
I.C. SURCHARGES FOR HOUSING AUTHORITY-FURNISHED UTILITIES .....	16-3

I.D. REASONABLE ACCOMMODATION ..... 16-3

**PART II: ESTABLISHING FLAT RENTS**

II.A. OVERVIEW ..... 16-3

II.B. FLAT RENTS ..... 16-3

**PART III: FAMILY DEBTS OWED TO THE HOUSING AUTHORITY**

III.A. OVERVIEW ..... 16-4

III.B. REPAYMENT PROCEDURE ..... 16-5

**PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)**

IV.A. OVERVIEW ..... 16-6

IV.B. PHAS SCORING ..... 16-6

**PART V: RECORD KEEPING**

V.A. OVERVIEW ..... 16-7

V.B. RECORD RETENTION ..... 16-7

V.C. RECORD MANAGEMENT ..... 16-7

**PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

VI.A. REPORTING REQUIREMENTS ..... 16-10

**CHAPTER 17**

**SMOKE-FREE POLICY**

I.A. INTRODUCTION ..... 17-1

I.B. RESPONSIBILITIES ..... 17-1

I.C. VIOLATIONS ..... 17-2

I.D. CESSATION RESOURCES ..... 17-2

**CHAPTER 18**

**RESIDENTIAL RELOCATION AND RE-HOUSING PROCEDURE**

I.A. INTRODUCTION ..... 18-1

I.B. NON-DISCRIMINATION ..... 18-2

I.C. NOTICE ..... 18-2

I.D. WAITING LISTS ..... 18-3

I.E. ELIGIBILITY.....	18-3
I.F. DETERMINATION OF THE APPROPRIATE SIZE AND TYPE OF UNIT.....	18-4
I.G. DETERMINATION OF PERMANENT UNIT MIX.....	18-4
I.H. UNIT ASSIGNMENTS.....	18-5
I.I. REFUSALS OF OFFERS OF HOUSING.....	18-7
I.J. RELOCATION PAYMENTS.....	18-7
I.K. CONTINUED OCCUPANCY.....	18-8
I.L. GRIEVANCES AND APPEALS.....	18-8
I.M. COMPLAINTS OF DISCRIMINATION.....	18-8
I.N. WAIVER.....	18-8
I.O. AMENDMENTS.....	18-8
I.P. DEFINITIONS.....	18-9

**CHAPTER 19**

**VIOLENCE AGAINST WOMEN ACT (VAWA)**

I.A. INTRODUCTION.....	19-1
I.B. DEFINITIONS.....	19-3
I.C. NOTIFICATION.....	19-4
I.D. VAWA PROTECTIONS.....	19-5
I.E. DOCUMENTATION.....	19-10
I.F. TIME FRAME FOR SUBMITTING DOCUMENTATION.....	19-11
I.G. CONFIDENTIALITY.....	19-13

**APPENDICIES**

ACRONYMS.....	I-1
GLOSSARY OF TERMS IN SUBSIDIZED HOUSING.....	I-5
GLOSSARY OF TERMS USED IN THE NON-CITIZEN RULE.....	I-18

## **Chapter 1 OVERVIEW OF THE PROGRAM AND PLAN**

### **INTRODUCTION**

As a Public Housing Agency (PHA), the Housing Authority of the County of Merced "Housing Authority" receives its operating subsidy for the public housing program from the U.S. Department of Housing and Urban Development (HUD). The Housing Authority is not a federal department or agency. A public housing agency is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The Housing Authority enters into an Annual Contributions Contract (ACC) with HUD to administer the public housing program. The Housing Authority must ensure compliance with federal laws, regulations and notices and must establish Procedure to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the Housing Authority and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of this plan and guide.

There are three parts to this chapter:

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

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

### **PART I: THE HOUSING AUTHORITY**

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

This part describes the Housing Authority's creation and authorization, the general structure of the organization, and the relationship between the Authority's Board of Commissioners and staff.

#### **1-I.B. ORGANIZATION AND STRUCTURE OF THE HOUSING AUTHORITY**

Public housing is funded by the federal government and administered by the Housing Authority for the jurisdiction of Merced County.

The Housing Authority is governed by a board of officials that are generally called "Commissioners." Although some Housing Authority's may use a different title for their officials, this document will refer to the "Board of Commissioners" or the "Board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board of Commissioners establishes

policies under which the Housing Authority conducts business, and ensures that those policies are followed by Housing Authority staff. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success. Formal actions of the Housing Authority are taken through written resolutions, adopted by the Board and entered into the official records of the Authority.

The principal staff member of the Housing Authority is the Executive Director who is selected and hired by the Board. The Executive Director oversees the day-to-day operations of the Housing Authority and is directly responsible for carrying out the policies established by the Commissioners. The Executive Director's duties include hiring, training, and supervising the Housing Authority's staff, as well as budgeting and financial planning for the agency. Additionally, the Executive Director is charged with ensuring compliance with federal and state laws and program mandates.

### **1-I.C. HOUSING AUTHORITY MISSION**

#### Housing Authority Mission Statement

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

### **1-I.D. HOUSING AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, the Housing Authority is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the Housing Authority resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe and sanitary housing in good repair and to remain in compliance with HUD's Uniform Physical Condition Standards (UPCS).
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socioeconomic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the Authority's mission.

- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the Authority's support systems and commitment to our employees and their professional development.

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

## **PART II: THE PUBLIC HOUSING PROGRAM**

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 ("Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA), also known as the Public Housing Reform Act or Housing Act of 1998 was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed Housing Authority's more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for Housing Authority's to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self- sufficiency incentives.

### **1-II.B. PUBLIC HOUSING PROGRAM BASICS**

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the Housing Authority to administer programs in accordance with HUD regulations and provides an operating subsidy to the Housing Authority. The Housing Authority must create written policies that are consistent with HUD regulations. Among these policies is the Housing Authority's Admissions and Continued Occupancy Procedure (ACOP). The ACOP must be approved by the Board of Commissioners of the Housing Authority. The job of the Housing Authority pursuant to HUD regulations is to

provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The Housing Authority screens applicants for public housing and, if they are found eligible and accepted, the Housing Authority offers the applicant a unit. If the applicant accepts the offer, the Housing Authority will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide) who (1) executed the lease with the Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this Procedure. Additionally, this Procedure uses the term "family" or "families" for residents or applicants, depending on context.

Since the Housing Authority owns and manages public housing developments, the Housing Authority is the landlord. The Housing Authority must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and Housing Authority policies.

#### **1-II.C. PUBLIC HOUSING PARTNERSHIPS**

The relationships between parties are defined by federal regulations and by contract. To administer the public housing program, the Housing Authority enters into a contractual relationship with HUD through the ACC. The Housing Authority also enters into a contractual relationship with the tenant through the lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and to be successful for all parties involved; HUD, the Housing Authority, and the tenant must play their important parts.

#### **HUD's Responsibilities**

Federal law is the source of HUD's responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress.
- Allocate operating subsidies to Housing Authorities.
- Allocate capital funding to Housing Authorities.
- Provide technical assistance to Housing Authorities on interpreting and applying program requirements.



- Monitor Housing Authorities compliance with program requirements and Housing Authorities performance in program administration.

### **The Housing Authority's Responsibilities**

The Housing Authority's responsibilities originate in federal regulations and the ACC. The Housing Authority owns and manages public housing developments, administers the program under contract with HUD, and has the following major responsibilities:

- Establish the ACOP.
- Review applications from interested applicant families to determine whether applicants are eligible for the program.
- Maintain waiting lists and select applicants for admission.
- Maintain housing units by making any necessary repairs in a timely manner.
- Screen applicants who apply for tenancy, to determine if they will be good tenants.
- Offer units to applicants (minimize vacancies without overcrowding).
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with Uniform Physical Conditions Standards (UPCS)).
- Ensure the Housing Authority has adequate financial resources to maintain its housing stock.
- Ensure that participants continue to qualify under the program.
- Collect rent due from the assisted family and comply with and enforce provisions of the lease.
- Ensure that participants comply with program rules.
- Provide applicants and program participants with prompt and professional service.
- Comply with all Fair Housing and Equal Opportunity (FHEO) requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, the Housing Authority's ACOP, and other applicable federal, state, and local laws.

### **Tenant's Responsibilities**

The tenant's responsibilities are articulated in the lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and house rules.

- Provide the Housing Authority with complete and accurate information, determined by the Housing Authority to be necessary for the administration of the program.
- Cooperate in attending all appointments scheduled by the Housing Authority.
- Allow the Housing Authority to inspect the unit at reasonable times and after reasonable notice.
- Take responsibility for care of the housing unit, including any violations of UPCS caused by the family.
- Not engage in drug-related or violent criminal activity on or off the premises.
- Notify the Housing Authority in writing at least thirty (30) calendar days before terminating the lease.
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease.
- Promptly notify the Housing Authority in writing or via alternative method such as the Online Certification Portal of any changes in the family composition within thirty (30) calendar days.
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

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

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 965: Housing Authority-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

**PART III: ADMISSIONS AND CONTINUED OCCUPANCY POLICIES (ACOP)**

**1-III.A. OVERVIEW AND PURPOSE OF THE PROCEDURE**

The ACOP is the Housing Authority's written statement of policies used to carry out the

housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the Housing Authority's Agency Plan. All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The Housing Authority is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

### **1-III.B. CONTENTS OF THE PROCEDURE**

Unlike the Housing Choice Voucher Program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the Housing Authority's written Procedure. At a minimum, the ACOP plan should cover Housing Authority policies on these subjects:

- The organization of the waiting lists and how applicants are selected and offered available units, including any Housing Authority admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the Housing Authority waiting lists (see Chapter 4-Applications, Waiting Lists and Tenant Selection and Chapter 5-Occupancy Standards and Unit Offers for more information).
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (see Chapter 12-Transfer Procedure for more information).
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (see Chapter 3-Eligibility and Chapter 5-Occupancy Standards and Unit Offers for more information).
- Procedures for verifying the information the applicant/participant has provided (see Chapter 7- Verification for more information).
- The method for achieving deconcentration of poverty and income mixing of public housing developments (see Chapter 4- Applications, Waiting List and Tenant Selection for more information).
- Grievance procedures (see Chapter 14-Grievances and Appeals for more information).
- Policies concerning payments by a family to the Housing Authority of amounts the family owes the Housing Authority (see Chapter 15-Program Integrity and Chapter 16- Program Administration for more information).

- Annual and interim reexaminations of family income and composition (see Chapter 9- Reexaminations for more information).
- Policies regarding community service requirements (see Chapter 11-Community Service for more information).
- Policies and rules about safety and ownership of pets in public housing (see Chapter 10- Pet Ownership for more information).

### **Procedure Development**

HUD has developed an approach to monitoring Procedure that emphasizes the importance of consistency. The ACOP supports that goal by clearly defining Housing Authorities Procedure for Housing Authorities management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how Housing Authorities conduct their business and in how HUD monitors Housing Authority activities. HUD has made it clear that consistency in Housing Authorities conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying the Housing Authority's Procedure.

HUD makes a distinction between:

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

HUD expects Housing Authorities to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the Housing Authority has adopted. The Housing Authority's ACOP is the document that contains and clarifies Housing Authority Procedure.

HUD's direction adds additional emphasis on the need for a clearly written and comprehensive ACOP to guide staff in a clear and consistent application of Procedure.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD's guidance in the preparation of the Housing Authority's Procedure, even though it is not mandatory, provides a Housing Authority with a "safe harbor."

If a Housing Authority adopts its own optional Procedure, it must make its own determination that such Procedure is consistent with legislation, regulations, and other mandatory requirements.

**1-III.C. UPDATING AND REVISING THE POLICY**

Housing Authority Procedure

The Housing Authority will review and update the ACOP at least once a year, and more often if needed, to reflect changes in regulations, Housing Authority operations, or when needed to ensure staff consistency in the operation of the program. The original Policy and any changes must be approved by the Board of Commissioners of the Housing Authority and a copy provided to HUD

## Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

### INTRODUCTION

This chapter explains the HUD regulations requiring Housing Authorities to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent Procedure and processes. The responsibility to further nondiscrimination pertains to all areas of the Housing Authority's public housing operations.

This chapter describes HUD regulations and Housing Authority's policies related to these topics in three parts:

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

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

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

### PART I: NONDISCRIMINATION

#### 2-I.A. OVERVIEW

Federal laws require Housing Authorities to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and/or disability. The Housing 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, including:

- Title VI of the Civil Rights Act of 1964;
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988);
- Executive Order 11063;

- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975;
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern);
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule published in the *Federal Register* February 3, 2012;
- The Violence Against Women Act of 2013 (VAWA); and
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

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

Housing Authority Procedure

The State of California prohibits discrimination in housing on the basis of race, color, religion, national origin, ancestry, disability, sex (including sexual orientation and gender identity/expression), marital status, sexual orientation, familial status, and source of income.

**2-I.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as Housing Authority policies, may also prohibit discrimination against additional classes of people.

Housing Authority Procedure

The Housing Authority shall not discriminate regardless of race, color, religion, familial status, age, disability, national origin (called "protected classes"), ancestry, disability, sex (including sexual orientation and gender identity/expression), marital status, or source of income. Familial status includes children under 18 years of age living with parents or legal custodians, pregnant women, and people securing custody of children under 18 years of age.

When determining program eligibility, the Housing Authority will not use any of the above stated factors to:

- Deny any applicant the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program.
- Provide housing that is different from that provided to others.
- Subject anyone to segregation or disparate treatment.

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

**Providing Information to Families**

The Housing Authority must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the Housing Authority will provide information to public housing applicant families about the civil rights requirements during orientation.

**Discrimination Complaints**

If an applicant or tenant family believes that any family member has been discriminated against by the Housing Authority, the applicant or tenant family should notify the Housing Authority. HUD requires the Housing Authority to make every reasonable attempt to determine whether the applicant’s or tenant family’s assertions have merit and take any warranted corrective action.

Housing Authority Procedure

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the Housing Authority either orally or in writing. The Housing Authority will attempt to remedy discrimination complaints made against the Housing Authority. The Housing Authority will provide a Discrimination Complaint Form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO) for their review.



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

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

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

The Housing Authority must ensure that persons with disabilities have full access to the Housing Authority's programs and services. This responsibility begins with the first inquiry of an interested applicant and continues through every programmatic area of the public housing program [24 CFR Part 8].

The Housing Authority must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a disability of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)]. Outreach efforts will include notification of the Authority's 504 Coordinator as well as all other media and agencies listed in the ACOP regarding public notices.

#### Housing Authority Procedure

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

"If you or anyone in your family is a person with disabilities, and you require a specific reasonable accommodation in order to fully utilize our programs and services, please contact the Housing Authority."

A specific name and phone number will be indicated as the contact for requests for reasonable accommodation for persons with disabilities.

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

A "reasonable accommodation" is a change, exception, or adjustment to a rule, Procedure, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

### **Types of Reasonable Accommodations**

When it is reasonable (see definition Section 2-II.E), the Housing Authority shall accommodate the needs of a person with disabilities. Examples include, but are not limited to the following:

- Permitting applications and reexaminations to be completed by mail or online;
- Conducting home visits;
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability;
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability;
- Installing a ramp into a dwelling or building;
- Installing grab bars in a bathroom;
- Installing visual fire alarms for hearing impaired persons;
- Allowing a Housing Authority approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit;
- Providing a designated disability accessible parking space;
- Allowing an assistance animal;
- Permitting an authorized designee or advocate to participate in the application or reexamination process and any other meetings with Housing Authority staff; and
- Displaying posters and other housing information in locations throughout the Housing Authority's offices in such a manner as to be easily readable from a wheelchair.

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

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

The applicant or participant must explain what type of reasonable accommodation is needed to provide the person with the disability full access to the Housing Authority's programs and services.

If the need for the reasonable accommodation is not readily apparent or known to the Housing Authority, the applicant, or participant must explain the relationship between the requested reasonable accommodation and the disability.

#### Housing Authority Procedure

The Housing Authority will encourage the applicant or participant to make its request in writing using a Reasonable Accommodation Request form. However, the Housing Authority will consider the reasonable accommodation any time the applicant or participant indicates that a reasonable accommodation is needed whether or not a formal written request is submitted. The Housing Authority will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana (recreational or medicinal), even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct. The Housing Authority will deny admission to those applicant households with individuals who are, at the time of consideration for admission, using medical marijuana. [The Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661)].

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

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

After being notified either verbally or in writing by an applicant or participant requesting a reasonable accommodation, the Housing Authority must determine that the person meets the definition of a person with a disability, and that the reasonable accommodation will enhance the applicant or participant's access to the Housing Authority's programs and services, prior to providing the reasonable accommodation.

If a person's disability is obvious or otherwise known to the Housing Authority, and if the need for the requested reasonable accommodation is also readily apparent or known, no further verification may be required.

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

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

- Third-party verification must be obtained from an individual identified by the applicant or participant who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or

a reliable third-party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- The Housing Authority must request only information that is necessary to evaluate the disability related need for the reasonable accommodation. The Housing Authority may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the Authority does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the Authority, will dispose of it. In place of the information, the Authority will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

#### **2-II.E. APPROVAL/DENIAL OF A REQUESTED REASONABLE ACCOMMODATION**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

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

1. The request was made by or on behalf of a person with a disability.
2. There is a disability-related need for the reasonable accommodation.
3. The requested reasonable accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the Housing Authority, or fundamentally alter the nature of the Housing Authority's operations.

Requests for reasonable accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested reasonable accommodation, the financial resources of the Housing Authority at the time of the request, the benefits that the reasonable accommodation would provide to the applicant or participant, and the availability of alternative reasonable accommodations that would effectively meet the applicant or participant's disability-related needs.

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

#### Housing Authority Procedure

After a request for a reasonable accommodation is presented, the Housing Authority will

respond, in writing, within ten (10) calendar days.

If the Housing Authority denies a request for a reasonable accommodation because there is no relationship, or nexus, found between the disability and the requested reasonable accommodation, the notice will inform the applicant or participant of the right to appeal the Housing Authority's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14-Grievances and Appeals for more information).

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

If the Housing Authority believes that the applicant or participant has failed to identify a reasonable alternative reasonable accommodation after interactive discussion and negotiation, the Housing Authority will notify the applicant or participant, in writing, of its determination within ten (10) calendar days from the date of the most recent discussion or communication with the applicant or participant. The notice will inform the applicant or participant of the right to appeal the Housing Authority's decision through an informal review or hearing (if applicable) or the grievance process (see Chapter 14-Grievances and Appeals for more information).

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

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

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

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

Housing Authority Procedure

To meet the needs of persons with hearing impairments, Telecommunications Device for the Deaf/TeleType (TDD/TTY), 711 or, 1-800-855-7100, communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of

key program documents may be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with Housing Authority staff, one-on-one assistance will be provided upon request.

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

### **2-II.G. PHYSICAL ACCESSIBILITY**

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

- Notice PIH 2010-16
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The Housing Authority's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents:

- The Admissions and Continued Occupancy Procedure, describes the key policies that govern the Housing Authority's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The Public Housing Agency Annual Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

A Housing Authority's decision to deny or terminate the assistance of an applicant or participant that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7]. When applicants with disabilities are denied assistance,

the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a participant's lease is terminated, the notice of termination must inform the participant of their right to request a hearing in accordance with the Housing Authority's grievance process [24 CFR 966.4 (l)(3)(ii)].

When reviewing reasonable accommodation requests, the Housing Authority must consider whether reasonable accommodation will allow the applicant or participant to overcome the problem that led to the Housing Authority's decision to deny or terminate assistance. If a reasonable accommodation will allow the applicant or participant to meet the requirements, the Housing Authority must make the reasonable accommodation [24 CFR 966.7].

In addition, the Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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

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

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

The Housing Authority will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP). LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Procedure, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families. In order to determine the level of access needed by LEP persons, the Housing Authority will balance the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and

4. The resources available to the Housing Authority and costs associated with the level of access needed by LEP persons.

Balancing these four (4) factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the Housing Authority.

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

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

#### Housing Authority Procedure

The Housing Authority will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where feasible, the Housing Authority will train and hire bilingual staff to be available to act as interpreters and translators, and will standardize documents. Where feasible and possible, the Housing Authority will encourage the use of qualified community volunteers.

When LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the Housing Authority. The interpreter may be a family member or friend who is 18 years of age or older.

### **2-III.C. WRITTEN TRANSLATION**

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

#### Housing Authority Procedure

In order to comply with written translation obligations, the Housing Authority will take the following steps:

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

### **2-III.D. IMPLEMENTATION PLAN**

After completing the four (4) factor analysis and deciding what language assistance services are appropriate, the Housing Authority shall determine whether it is necessary to develop



a written implementation plan to address the identified needs of the LEP populations it serves.

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

Housing Authority Procedure

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

If the Housing Authority determines it is appropriate to develop a written LEP plan, the following steps will be taken:

1. Identifying LEP individuals who need language assistance;
2. Identifying language assistance measures;
3. Training staff;
4. Providing notice to LEP persons; and
5. Monitoring and updating the LEP plan.

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

**EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR 8.3; 24 CFR Part 104; and 24 CFR 100.201]**

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

- Current illegal drug users;

- People whose alcohol use interferes with the rights of others; and/or
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program.

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

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

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

**PRIVACY RIGHTS [24 CFR 982.551 AND 24 CFR 5.212]**

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

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. The Authority will not collect or maintain sensitive personally identifiable information without proper authorization. Additionally, the Authority will only collect Personally Identifiable Information (PII) that is needed for the purpose for which it is collected.

- Personally Identifiable Information is defined in the Office of Management and Budget (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 is PII 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.

Authority 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 (reference Section 906 of the Personnel Policy).

HUD regulations 24 CFR 5.216 and 5.233, PHAs are required to use the Enterprise Income Verification (EIV) system to reduce administrative and subsidy payment errors. The Authority utilizes EIV system as an on-line source for income verification before or during a reexamination, 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 (only) to whom the record pertains. EIV data of minors may be provided to the minor's parent or guardian.

All files must be signed for when removed from the secured file storage area.

## **Chapter 3 ELIGIBILITY**

### **INTRODUCTION**

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

To be eligible for the public housing program, the applicant family must:

- Qualify as a family as defined by the United States Department of Housing and Urban Development (HUD) and the Housing Authority.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.

Consent to the Housing Authority's collection and use of family information by signing the applicable consent forms including but not limited to the HUD Form 9886 and the Housing Authority consent forms.

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

This chapter contains three parts:

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

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

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

### **PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

#### **3-I.A. OVERVIEW**

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part

provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

### **3-I.B. FAMILY AND HOUSEHOLD**

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

#### **Family [24 CFR 5.403]**

*Family* includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near- elderly person, or any other single person; or
2. A group of persons residing together, such group includes, but is not limited to:
  - i. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - ii. An elderly family;
  - iii. A near-elderly family;
  - iv. A disabled family;
  - v. A displaced family; and
  - vi. The remaining member of a tenant family.

In addition, the Housing Authority has determined other group of persons qualifies as a family.

#### Housing Authority Procedure

To qualify as a family, when all members are not related by blood, marriage, adoption, or other operation of law, the Housing Authority will require documentation of a stable relationship and certification of shared resources between otherwise unrelated individuals. Additionally, documentation will need to be provided that a living arrangement was already in place for a minimum of twelve (12) months.

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

#### **Household**

*Household* is a broader term that includes additional people who, with the Housing Authority's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

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

#### Family Break-up

Except under the following conditions, the Housing Authority, has the 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 Housing Authority must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking see Chapter 19 of this ACOP).
- If a court determines that disposition of property between members of the assisted family, the Housing Authority, is bound by the courts' determination of which family members continue to receive assistance.

#### Housing Authority Procedure

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 living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, the Housing Authority will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the Housing Authority will determine which family retains their placement on the waiting list, or will continue in occupancy. In making its determination, the Housing 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 or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with Chapter 19 of this ACOP, and (4) the recommendations of social service professionals.

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

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

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, See Chapter 6-Income and Rent Determinations, Section 6-I.B, for the Procedure on "Caretakers for a

Child.”

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

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

Housing Authority Procedure

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

**3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT [HUD-50058 Instructional Booklet, Section 3h, Household, Relation]**

A family may have a spouse or co-head, but not both.

*Spouse* means the marriage partner of the head of household.

Housing Authority Procedure

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

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

Housing Authority Procedure

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

*Other adult* means a member of the household (excludes foster adults), other than the head, spouse, or co-head, who is 18 years of age or older on the effective date of action. Live-in aides are not considered other adults.

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

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

**Joint Custody of Dependents**

Housing Authority Procedure

Dependents that are subject to a joint custody arrangement will be considered members



of the family, if they live with the applicant or resident family fifty-one (51) percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Authority will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

### **3-I.G. FULL-TIME STUDENT [24 CFR 5.603]**

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

Identifying each FTS is important because of the following:

1. Each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction; and
2. The income of such an FTS is treated differently from the income of other family members.

### **3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY AND NEAR-ELDERLY FAMILY**

#### **Elderly Persons**

*Elderly Person* means an individual who is at least 62 years of age [24 CFR 5.100].

#### **Near-Elderly Persons**

*Near-elderly person* means a person who is at least 50 years of age but below the age of 62, who may be a person with a disability [24 CFR 945.105].

#### **Elderly Family**

*Elderly family* means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age [24 CFR 5.403].

#### **Near-Elderly Family**

*Near-elderly family* means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 [24 CFR 5.403].

Identifying elderly persons and families is important because these households qualify for special deductions from income as described in Chapter 6-Income and Rent Determinations, and may qualify for a particular type of development as noted in Chapter 4-Applications, Waiting List and Tenant Selection (i.e. elderly-only complex).

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

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

The Housing Authority must make all aspects of the public housing program accessible to persons with disabilities and consider a reasonable accommodation requested based upon a person's disability (see Chapter 2-Fair Housing and Equal Opportunity, Part II, Policies Related to Persons with Disabilities for more information).

#### **Disabled Family**

*Disabled family* means a family whose head (including co-head), spouse, or sole member is a person with a disability [24 CFR 5.403].

Identifying disabled families is important because these families qualify for deductions from income as described in Chapter 6-Income and Rent Determinations, and may qualify for a particular type of development as noted in Chapter 4-Applications, Waiting List and Tenant Selection (i.e. elderly-only complex).

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the Housing Authority from denying admission for reasons related to alcohol and drug abuse following the policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13-Lease Terminations.

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

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near Housing Authority premises [24 CFR 966.4(f)].

#### Housing Authority Procedure

A guest can remain in the unit no longer than fourteen (14) cumulative calendar days during any twelve (12) month period.

A family may request an exception to this Procedure for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last twenty (20) consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation

privileges, that are not included as a family member because they live outside of the public housing unit more than fifty-one percent (51%) of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests. Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

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

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

The term *foster child* is not specifically defined by the regulations. Foster children and foster adults that 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 [24 CFR 5.603].

#### Housing Authority Procedure

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

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

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

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

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

The Housing Authority must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

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 hazard duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The Housing Authority will evaluate absences from the unit in accordance with this policy. Generally, an individual who is or is expected to be absent from the public housing unit for ninety (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 public housing unit for more than ninety (90) consecutive days is considered

permanently absent and no longer a family member. (see Chapter 9 for Absence of Entire Family)

**Absence of Any Member**

Any member of the household will be considered permanently absent if they are away from the unit for more than ninety (90) consecutive days in a 12 month-period except as otherwise provided in this chapter.

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

If the sole member is incarcerated for more than sixty (60) consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member will be considered permanently absent if s/he is incarcerated for sixty (60) consecutive days. The rent and other charges must remain current during this period. However, depending on the seriousness of the offense and evidence

Housing Authority Procedure

Generally, an individual who is, or is expected to be, absent from the public housing unit for an accumulation of ninety (90) days is considered temporarily absent and continues to be considered a family member. An individual who is, or is expected to be, absent from the public housing unit for more than an accumulation of ninety (90) days is considered permanently absent and no longer a household member. Exceptions to this general Procedure are discussed below.

**Absent Students**

Housing Authority Procedure

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

Children temporarily absent from the home due to placement in foster care shall be considered members of the family.

Housing Authority Procedure

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

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

Housing Authority Procedure

An employed head, spouse, or co-head absent from the unit for more than ninety (90) consecutive days due to employment will continue to be considered a family member.

### **Individuals Confined for Medical Reasons**

#### Housing Authority Procedure

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

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

### **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.

The Housing Authority will determine if the reason for incarceration for consideration of taking action as appropriate.

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

#### Housing Authority Procedure

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

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

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

1. Is determined to be essential to the care and well-being of the persons;
2. Is not obligated for the support of the persons; and
3. Would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The Housing 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 a family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the live-in aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

### Housing Authority Procedure

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

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

The Housing Authority will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity;
- The person currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with the Housing Choice Voucher Program (HCVP), formerly known as Section 8 or public housing assistance under the United States Housing Act of 1937;
- The person subject to a lifetime registration requirement under the State Sex Offender Registration program.

Within ten (10) calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the Housing Authority will notify the family of its decision in writing.

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

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

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

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

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

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

*Extremely low-income family.* A very-low income family whose annual income does not

exceed the higher of:

1. The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or
2. Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

#### **Using Income Limits for Eligibility [24 CFR 960.201]**

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

#### **Using Income Limits for Targeting [24 CFR 960.202(b)]**

At least forty percent (40%) of the families admitted to the Housing Authority's public housing program during a Housing Authority fiscal year from the Housing Authority waiting list must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the Housing Authority's HCVP during a Housing Authority fiscal year exceed the seventy-five percent (75%) minimum targeting requirement for that program, such excess shall be credited against the Housing Authority's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for HCVP admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent (10%) of public housing waiting list admissions during the Housing Authority's fiscal year;
- Ten percent (10%) of waiting list admission to the Housing Authority's HCVP during the Housing Authority's fiscal year; and
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of thirty percent (30%) or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For a description on how income targeting is used in tenant selection, see Chapter 4-Applications, Waiting List and Tenant Selection.

#### **3-11.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]**

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

immigration status in order for the family to qualify for any level of assistance.

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

**Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

**U.S. Citizens and Nationals**

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

Housing Authority Procedure

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

**Eligible Noncitizens [Public Law 106-504, 24 CFR 5.508(b)(2)]**

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

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

For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

- i. A signed declaration of immigration status; and



- ii. Proof of Age Document

For all other noncitizens, the evidence consists of:

- i. A signed declaration of immigration status;
- ii. One of the Immigration and Naturalization Service (INS) documents referred to in §5.510; and
- iii. A signed verification consent form.

**Ineligible Noncitizens**

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

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

**Mixed Families [24 CFR 5.504]**

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Mixed family means a family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6- Income and Rent Determinations, for more information on how rents are prorated, and Chapter 14-Grievances and Appeals, for a more information on the informal hearing procedures.

**Ineligible Families [24 CFR 5.514]**

A Housing Authority may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)] is established. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the Housing Authority that the individual or at least one family member is eligible [24 CFR 5.512(a)].

Housing Authority Procedure

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

When a Housing Authority determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will

be sent a written notice within ten (10) calendar days of the determination.

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

Informal hearing procedures are contained in Chapter 14-Grievances and Appeals.

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

For new occupants joining the resident family the Housing Authority must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, the Housing Authority must grant such an extension for no more than thirty (30) days [24 CFR 5.508(h)].

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

Housing Authority Procedure

The Housing Authority will verify eligible immigration status simultaneously with the verification of other aspects of eligibility.

**3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, PIH 2018-24 (HA)]**

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. If the Housing Authority determines that the assistance applicant is otherwise eligible to participate in a program, the assistance 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; or
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

If a child under the age of 6 years was added to the assistance applicant household within the 6- month period prior to the household's date of admission the assistance applicant may become a participant, so long as the documentation referenced in the bullets above is provided to the Housing Authority within 90 calendar days from the date of admission into the program. The Housing Authority must grant an extension of one additional 90-day period if the Housing Authority determines that, in its discretion, the assistance applicant's

failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation referenced in the bullets above within the required time period, the processing entity must follow the provisions of 24 CFR 5.218.

Disclosure Requirements

Disclosure of SSN is required. The requirements of this section apply to applicants and participants (including each member of the household and including live-in aides, foster children, and foster adults). Each applicant and participant must submit complete and accurate SSN assigned to the applicant and to each member of the applicant's household.

Each person, except those 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 an SSN;
- Previously disclosed an SSN that HUD or the Social Security Administration (SSA) determined was invalid; or
- Been issued a new SSN

Once an applicant has provided Social Security Numbers for the household and the Housing Authority has verified each SSN, the following rules apply:

*Addition of new household member who is at least six (6) years of age or under the age of six (6) and has an assigned SSN.* When the participant requests to add a new household member who is at least six (6) years of age, or is under the age of six (6) and has an assigned SSN, the participant must provide the following to the Housing Authority at the time of the request, or at the time of processing the interim reexamination or reexamination of family composition that includes the new member(s).

- An original SSN card issued by SSA;
- An original SSA-issued document, which contains the name and SSN of the individual; or
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

*Addition of new household member who is under the age of six (6) and has no assigned SSN.* When a participant requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child within ninety (90) calendar days of the child being added.

The Housing Authority shall grant an extension of one (1) additional ninety (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.

When determining eligibility, each applicant must submit the information to the Housing Authority. If the applicant does not provide requested SSN and the Housing Authority determines that the applicant is otherwise eligible 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 complete and accurate SSN assigned to each member of the household (same rules apply with regard to extensions granted to obtain SSN).

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

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

HUD requires the head of household, spouse, or co-head, regardless of age, and all other adults over 18 years of age to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7-Verification, provides detailed information concerning the consent forms and verification requirements.

The head of household is also required to sign the Supplement to Application for Federally Assisted Housing, Form HUD-92006.

The Housing Authority must deny admission to the program if any member of the applicant family fails to sign and submit consent forms and any additional required forms, which allow the Housing Authority to obtain information that the Housing Authority has determined is necessary in administration of the public housing program [24 CFR 5.232].

## **PART III: DENIAL OF ADMISSION**

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

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

In addition, HUD permits the Housing Authority to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHAs authority in this area is limited by the Violence Against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking. [24 CFR 5.2005(b)].

These topics are covered in the following subsection of this Chapter:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening

- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, or stalking
- Notice of eligibility or denial

**3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.203, 24 CFR 960.204, 24 CFR 960.205]**

Housing Authorities are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the Housing Authority has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the Housing Authority prohibit admission for a prescribed period of time after some disqualifying behavior or event, the Housing Authority may choose to continue that prohibition *for a longer period of time* [24 CFR 960.203(c)(3)(ii)].

***Persons evicted for drug-related criminal activity.*** The Housing Authority's standards must prohibit admission of an applicant to the Housing Authority's public housing program for three (3) years from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity. However, the Housing Authority may admit the household if the Housing Authority determines:

- i. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Housing Authority; or
- ii. The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

Housing Authority Procedure

The Housing Authority may admit an otherwise eligible family who was evicted from federally assisted housing within the ***past five (5) years*** for drug-related criminal activity, if the Housing Authority is able to verify the following:

1. The household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Housing Authority; or
2. The person who committed the crime is no longer living in the household.

***Persons engaging in illegal use of a drug.*** The Housing Authority must establish standards that prohibit admission of a household to the Housing Authority's public housing program if the Housing Authority determines:

- i. Any household member is currently engaging in illegal use of a drug (for purposes of this section, a household member is "currently engaged in" the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable

belief that the behavior is current). *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]; or

- ii. It has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### Housing Authority Procedure

*Currently engaged in illegal use of a drug* is defined as any use of illegal drugs during the previous six (6) months. In determining reasonable cause, the Housing Authority will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrest(s) may not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. Although a record of arrest(s) may not be used to deny a housing opportunity, the Housing Authority may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the Housing Authority has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions. The Housing Authority will also consider evidence from treatment providers or community-based organizations providing services to household members.

***Persons convicted of methamphetamine production.*** The Housing Authority must establish standards that **permanently prohibit** admission to the Housing Authority's public housing program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing [24 CFR 960.204 (a)(3)].

#### Housing Authority Procedure

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine at any location, not just federally assisted housing, the family will be denied assistance.

***Persons subject to sex offender registration requirement.*** The Housing Authority must establish standards that prohibit admission to the Housing Authority's public housing program if any member of the household is subject to a lifetime registration requirement under any State sex offender registration program. In the screening of applicants, the Housing Authority must perform necessary criminal history background checks in the State where the housing is located and in other States where household members are known to have resided. [24 CFR 960.204 (a)(4)]

#### Housing Authority Procedure

If any household member is subject to a lifetime registration requirement under any State sex offender registration program, the family will be denied assistance.

### **3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

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

### **Criminal Activity [24 CFR 960.203]**

The Housing Authority has adopted policies and implemented procedures to successfully screen out and deny admission to applicants with unfavorable criminal histories. This Procedure takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

#### Housing Authority Procedure

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five (5) years, the family will be denied admission:

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100]. This also includes applicants who are current users of medical marijuana. [The Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661)].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of Housing Authority staff, contractors, subcontractors or agents.
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past **five (5) years**. A conviction for such activity will be given more weight than an arrest. A record of arrest(s) may not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. Although a record of arrest(s) may not be used to deny a housing opportunity, the Housing Authority may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the Housing Authority has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.

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

### **Previous Behavior [960.203(c) and (d)]**

In the selection of applicants for admission to its public housing program, or to occupy a public housing development or unit, the Housing Authority is responsible for screening family behavior and suitability for tenancy. The Housing Authority may consider all relevant information, which may include, but is not limited to:

1. An applicant's past performance in meeting financial obligations, especially rent;
2. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and
3. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants with respect to criminal activity described in 24 CFR 960.204:
  - i. The Housing Authority may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in 24 CFR 960.204 that warrants denial.
  - ii. The Housing Authority may, where a statute requires that the Housing Authority prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.
4. The Housing Authority's tenant selection criteria are subject to 24 CFR Part 5, Subpart L, protections for victims of domestic violence, dating violence, sexual assault, or stalking.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

In a manner consistent with the Housing Authority's policies, procedures and practices, consideration may be given to factors, which might indicate a reasonable probability of favorable future conduct. For example:

- i. Evidence of rehabilitation; and
- ii. Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs.

Housing Authority Procedure

The Housing Authority will deny admission to an applicant family if the Housing Authority determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations,



- including rent and utilities within the past five (5) years.
- Has a pattern of disturbance(s) of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five (5) years, which may adversely affect the health, safety, or welfare of other tenants.
  - Has a pattern of eviction from housing or termination from residential programs within the past **five (5) years** (considering relevant circumstances).
  - Owes rent or other amounts to this or any other Housing Authority or owner in connection with any assisted housing program.
  - Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
  - Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
  - Has engaged in or threatened violent or abusive behavior toward Housing Authority personnel.
    - *Abusive or violent behavior towards Housing Authority personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

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

#### ***Consideration of Rehabilitation***

In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the Housing 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 Housing Authority may require the applicant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully. If rehabilitation is not an element of the eligibility determination, the Housing

Authority may choose not to consider whether the person has been rehabilitated.

Housing Authority Procedure

The Housing Authority will consider the family's history with respect to the following factors and will deny admission to an applicant family if the Housing Authority determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent and utilities within the past five (5) years.
- Has a record of disturbance(s) of neighbors, destruction of property, or living or housekeeping habits (including caring for a unit and premises) at prior residences within the past **five (5) years** which may adversely affect the health, safety, or welfare of other tenants (including respecting the rights of other residents to the peaceful enjoyment of their housing and engaging in criminal activity that is a threat to the health, safety, or property of others) and has not been in compliance with any other essential conditions of tenancy.
- Has engaged in behavior by household member(s) as related to the grounds for denial as detailed in Sections 3-III. B and C.
- Has a record of eviction from housing or termination from residential programs within the past **five (5) years** (considering relevant circumstances) and has not been in compliance with any other essential conditions of tenancy.
- Owes rent or other amounts to this or any other Housing Authority or owner in connection with any assisted housing program.
- Misrepresented or did not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Has engaged in or threatened violent or abusive behavior toward Housing Authority personnel.
  - *Abusive or violent behavior towards Housing Authority personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the Housing Authority will consider the factors discussed in Section 3-III.E. and 3-III.F Upon consideration of such factors, the Housing

Authority may decide on a case-by-case basis not to deny admission.

### **3-III.D. SCREENING**

#### **Screening for Eligibility**

Housing Authorities are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This law enforcement agency assists the Housing Authority in complying with HUD requirements and Housing 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 Housing Authority must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The Housing Authority may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

#### Housing Authority Procedure

The Housing Authority will perform criminal background checks through local law enforcement and/or third-party vendor for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the Housing Authority may request a fingerprint card and may request information from the Department of Justice (DOJ). The Housing Authority may require the adult member who failed the background check to provide additional documentation to clarify results.

Housing Authorities are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

#### **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 reexamination screening reveals that the tenant or a member of the tenant's 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 reexamination forms, the Housing Authority will propose termination of tenancy. The Housing Authority will use the following process at initial eligibility and at each reexamination determination:

1. Ask households whether any member is subject to a lifetime registration requirement under a State sex offender registration program.
2. Use the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.
3. Aggressively pursue termination of tenancy or assistance, as appropriate, for

tenant's subject to a state lifetime sex offender registration requirement to the extent currently allowed by law.

If the Housing Authority proposes to deny admission based on a criminal record or sex offender under a State registration requirement, regardless of whether it is a lifetime registration requirement, the Housing Authority must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 960.204 and 5.905(d)].

***Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]***

HUD authorizes Housing Authorities to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the Housing Authority may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or co-head regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the Housing Authority whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

*Drug abuse treatment facility* means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

*Currently engaging in illegal drug use* means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the Housing Authority has made a final decision to either approve or deny the admission of such person. Any charges incurred by the Housing Authority for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

**Housing Authority Procedure**

The Housing Authority will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the Housing Authority has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

**Screening for Suitability as a Tenant [24 CFR 960.203 (c)]**

The Housing Authority is responsible for the screening and selection of families to occupy public housing units. The Housing Authority may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

#### Housing Authority Procedure

The Housing Authority will consider the family's history with respect to the following factors:

- Payment of rental history
- 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
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III B and C
- Compliance with any other essential conditions of tenancy

#### **Resources Used to Check Applicant Suitability**

Housing Authorities have a variety of resources available to them for determination of the suitability of applicants. Housing Authorities should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

#### Housing Authority Procedure

In order to determine the suitability of applicants the Housing Authority will examine applicant history for the past five (5) years. Screening categories and background checks will include:

- *Past Performance in Meeting Financial Obligations - Rent*
  - Housing Authorit(ies) and landlord references for the past five (5) years, including but not limited to, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the Housing Authority/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Housing Authorit(ies) and landlords will be asked if they would rent to the applicant family again.
  - If an applicant has no rental payment history, the Housing Authority will check court records of eviction actions, other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.
  - Applicants with no rental payment history will also be asked to provide the Housing Authority with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

- *Past Performance in Meeting Financial Obligations - Utilities*
  - Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)
  - If previous landlords or the utility company does not respond to requests from the Housing Authority, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)
- *Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development*
  - Housing Authority and landlord references for the past five (5) years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.
  - Police and court records within the past five (5) years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. Although a record of arrest(s) may not be used to deny a housing opportunity, the Housing Authority may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the Housing Authority has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.
  - A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available.
  - Home visits may be used to determine the applicant's ability to care for the unit.
- *Has a record of eviction from housing or termination from residential programs within the past five (5) years (considering relevant circumstances) and has not been in compliance with any other essential conditions of tenancy.*
  - Housing Authority and landlord references for the past five (5) years
  - The Housing Authority will review the Criminal Background Check Report and Credit Report for the past five (5) years

- *Owes rent or other amounts to this or any other Housing Authority or owner in connection with any assisted housing program*
  - The Housing Authority will obtain information from HUD's EIV Bad Debts module to determine if the applicant owes monies to another Housing Authority.
  - Housing Authorit(ies) and landlord references for the past five (5) years, including but not limited to, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the Housing Authorit(ies) or landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Housing Authorit(ies) and landlords will be asked if they would rent to the applicant family again.
  - If an applicant has no rental payment history the Housing Authority will check court records of eviction actions, other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.
  - Applicants with no rental payment history will also be asked to provide the Housing Authority with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.
- *Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.*
  - The Housing Authority will review the Criminal Background Check Report and Credit Report for the past five (5) years.

### **3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION EVIDENCE**

#### Housing Authority Procedure

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

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

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

#### **Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]**

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

In the event the Housing Authority receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's

conduct (including the seriousness of the offense). In a manner consistent with its policies, the Housing Authority may consider factors, which might indicate a reasonable probability of favorable future conduct.

Housing Authority Procedure

The Housing Authority will consider the following factors when making its decision:

- Whether the applicant's offense bears a relationship to the safety and security of other residents.
- The level of violence, if any, of the offense for which the applicant was convicted.
- The length of time since the conviction.
- The number of convictions that appear on the applicant's criminal history.
- If the applicant is now in recovery for an addiction, whether the applicant was under the influence of alcohol or illegal drugs at the time of the offense;
- Any rehabilitation efforts that applicant has undertaken since the time of conviction.

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 Housing Authority will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

**Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]**

HUD permits Housing Authorit(ies) to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

Housing Authority Procedure

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

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

**Reasonable Accommodation**

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



Housing Authority Procedure

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the Housing Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Housing Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Housing Authority will only consider reasonable accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2-II.B-Fair Housing and Equal Opportunity, Definition of Reasonable Accommodation.

**3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING [109th Congress Public Law 162, Pub.L. 109-162]**

The Violence Against Women Reauthorization Act of final rule published October 27, 2010 (VAWA) and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation. Specifically, Section 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

Every contract for contributions shall provide that the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section 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.

Please refer to Chapter 19, Violence Against Women Act for more information.

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

The Housing Authority will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

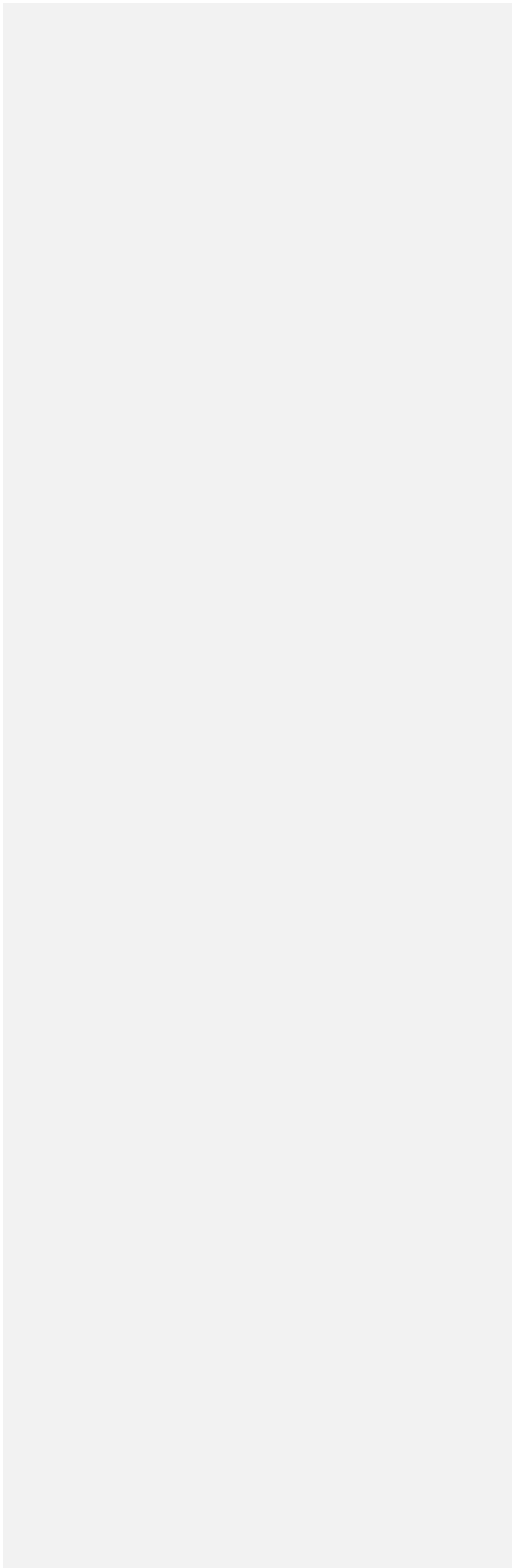
If a Housing Authority uses a criminal record or sex offender registration information obtained under 24 CFR Part 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the Housing Authority can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

Housing Authority Procedure

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the Housing Authority will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given ten (10) calendar days to dispute the accuracy and relevance of the information. If the family does not contact the Housing Authority to dispute the information within that ten (10) day period, the Housing Authority will proceed with issuing the notice of denial of admission. A family that does not exercise their right to

dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B. Policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking are contained in Section 3-III.F.



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

### Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads: Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.
- In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:
  - The term *developmental disability* means a severe, chronic disability of an individual that:
    - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
    - Is manifested before the person attains age twenty-two (22);
    - Is likely to continue indefinitely;
    - Results in substantial functional limitations in three or more of the following areas of major life activity:
      - i. self-care,
      - ii. receptive and responsive language,
      - iii. learning,
      - iv. mobility,
      - v. self-direction,
      - vi. capacity for independent living, and
      - vii. economic self-sufficiency;
- Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
- INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition,

may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- Persons with the Acquired Immuno-Deficiency Syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.
- A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

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

**Individual with Disabilities [24 CFR 8.3]**

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

1. Physical or mental impairment includes:
  - i. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - ii. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
2. Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
3. Has a record of such an impairment means has a history of, or has been misclassified

as having, a mental or physical impairment that substantially limits one or more major life activities.

4. Is regarded as having an impairment means:

- i. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation.
- ii. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment.
- iii. Has none of the impairments defined in paragraph (i) of this section but is treated by a recipient as having such an impairment.

## Chapter 4 APPLICATIONS, WAITING LIST AND TENANT SELECTION

### INTRODUCTION

HUD requires the Housing Authority to place all eligible families that apply for public housing program on a waiting list. When a family wishes to reside in public housing, the family must submit a pre- application that provides the Housing Authority with the information needed to determine the family's eligibility. When a unit becomes available, the Housing Authority must select applicants from the waiting list in accordance with HUD requirements and Housing Authority policies as stated in its Admissions and Continued Occupancy Procedure (ACOP) and its Annual Plan.

The Housing Authority is required to adopt a clear approach to accepting pre-applications, placing applicants on the waiting list, and selecting applicants from the waiting list, and must follow this approach consistently. The actual order in which applicants are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the Housing Authority to receive preferential treatment.

HUD regulations require that the Housing Authority comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103]. Adherence to the selection policies described in this chapter ensures that the Housing Authority will be in compliance with all relevant fair housing requirements; see Chapter 2-Fair Housing and Equal Opportunity for more information.

This chapter describes HUD and Housing Authority procedures for accepting pre-applications, managing the waiting list and selecting families from the waiting list. The Housing Authority procedures for assigning unit size and making unit offers are contained in the ACOP. Together, Chapter 4-Applications, Waiting List and Tenant Selection with Chapter 5-Occupancy Standards and Unit Offers of the ACOP comprise the Housing Authority's Tenant Selection & Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

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

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

Part III: Tenant Selection. This part describes the policies that guide the Housing Authority in selecting applicants from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the Housing Authority has the information needed to make a final eligibility determination.

## PART I: THE APPLICATION PROCESS

### 4-I.A. OVERVIEW

This part describes the policies that guide the Housing Authority's efforts to distribute and accept pre-applications. Based upon the information provided in the pre-application, preliminary determinations of applicant family eligibility will affect placement of the applicant on the waiting list. This part also describes the Housing Authority's obligation to ensure the accessibility of the pre-application process.

### 4-I.B. APPLYING FOR ASSISTANCE [24 CFR 1.4, 24 CFR Part 5 and 24 CFR 960.202(a)(2)(iv); PIH 2012-36 (HA)]

Any family that wishes to reside in public housing must apply for admission to the program. HUD permits the Housing Authority to determine the format and content of its pre-applications, as well how such pre-applications will be made available to interested families and how applications will be accepted by the Housing Authority.

#### Housing Authority Procedure

When the waiting list is open, the Housing Authority will accept pre-applications online at [www.merced-pha.com](http://www.merced-pha.com). Families will be required to provide an email and mailing address. The Housing Authority may allow an applicant to submit a paper pre-application if needed as a reasonable accommodation.

The purpose of pre-application taking is to permit the Housing Authority to gather information and determine placement on the waiting list. The pre-application will contain questions designed to obtain pertinent family information.

Families who wish to apply for any one of the Housing Authority's programs must complete an online pre-application when the waiting list is open. Pre-applications will be made available in an accessible format upon request from a person with a disability.

The pre-application process will involve two phases. The first is the "initial" pre-application for housing assistance (referred to as a pre-application). This first phase results in the family's placement on the waiting list. The pre-application will be electronically dated, timestamped. The Housing Authority will maintain a database until applicant name is selected from the waiting list.

The second phase is the "final determination of eligibility" (referred to as the full application). The full application takes place when the family is selected from the waiting list. At this time the Housing Authority ensures that families are eligible and suitability requirement is met.

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

1. Online

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

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

The Housing Authority must take a variety of steps to ensure that the application process is accessible to persons who might have difficulty complying with the Housing Authority application process.

##### **Disabled Populations [24 CFR Part 8]**

The Housing Authority must provide reasonable accommodation to the needs of individuals with disabilities. The application taking facility and the application process must be fully accessible, or the Housing Authority must provide an alternate approach that provides equal access to the application process. Chapter 2, Part II, Fair Housing and Equal Opportunity, Policies Related to Persons with Disabilities provides additional information of the Housing Authority's policies related to providing reasonable accommodations for people with disabilities.

##### **Limited English Proficiency [24 CFR Part 1]**

Housing Authorities are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP). Chapter 2, Part III, Fair Housing and Equal Opportunity, Improving Access to Services for Persons with Limited English Proficiency (LEP) provides additional information on the Housing Authority's policies related to ensuring access to people with LEP.

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

The Housing Authority will review each completed pre-application received and make a preliminary assessment of the family's eligibility. The Housing Authority must place on the waiting list applicants for whom the list is open unless the Housing Authority determines the applicant to be ineligible. Where the applicant is determined to be ineligible, the Housing Authority must notify the applicant in writing [24 CFR 960.208(a)]. When the applicant is determined to be eligible, the applicant will be placed on the waiting list.

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

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

###### Housing Authority Procedure

If the Housing Authority determines from the pre-application provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to



be ineligible, the Housing Authority will send written notification of the ineligibility determination within ten (10) calendar days of receipt of the completed pre-application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 14).

**Eligible for Placement on the Waiting List**

Housing Authority Procedure

When the waiting list is open, any family asking to be placed on the waiting lists will be given the opportunity to complete a pre-application. The Housing Authority will send written notification to the applicant verifying placement on the waiting list.

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

Applicants will be placed on the waiting list according to Housing Authority preference(s) and the date and time, the completed pre-application is received by the Housing Authority.

The Housing Authority will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5-Occupancy Standards and Unit Offers for more information). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to Housing Authority standards and local codes).

**PART II: MANAGING THE WAITING LIST**

**4-II.A. OVERVIEW**

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

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

**4-II.B. ORGANIZATION OF THE WAITING LIST**

The Housing Authority's public housing waiting list must be organized in such a manner to allow the Housing Authority to accurately identify and select applicants in the proper order, according to the admissions procedures described in this ACOP.

Housing Authority Procedure

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

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

Housing Authority Procedure

The Housing Authority will maintain a site-based waiting list for its public housing developments.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the Housing Authority operates if:

1. The other programs' waiting lists are open; and
2. The family is qualified for the other programs [24 CFR 982.205(a)(2)(ii)].

HUD permits, but does not require, that Housing Authority maintain a single merged waiting list for their public housing, tenant-based, and other subsidized housing programs [24 CFR 982.205(a)(1)].

Housing Authority Procedure

The Housing Authority will not merge the public housing waiting list with the waiting list for any other program the Housing Authority operates.

**4-II.C. OPENING AND CLOSING THE WAITING LIST**

The Housing Authority is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The Housing Authority may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit.

Housing Authority Procedure

The Housing Authority may cease accepting pre-applications if there are enough applicants to fill anticipated vacancies for the next twenty-four (24) months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The Housing Authority may announce the closing of the waiting list by public notice same method as opening. 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 Housing Authority will give at least ten (10) calendar day notice prior to closing the list. When the period for accepting pre-applications is over, the Housing Authority will add the new applicants to the wait list by:

- Sorting the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

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

If the waiting list has been closed, it may be reopened at any time. The Housing Authority will publish a notice in accordance with the Housing Authority's Language Access Plan (LAP) in a local newspaper of general circulation, and also by minority media, and other suitable means, including the Housing Authority's website at [www.merced-pha.com](http://www.merced-pha.com). Such notice must comply with HUD fair housing requirements. The Housing Authority should specify who may apply, and where and when pre-applications will be received.

#### Housing Authority Procedure

The Housing Authority will announce the reopening of the waiting list at least ten (10) calendar days prior to the date pre-applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how pre-applications are to be received.

#### **4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]**

The Housing Authority should conduct outreach as necessary to ensure that the Housing Authority has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the Housing Authority is affirmatively furthering fair housing and complying with the Fair Housing Act.

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

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

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

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

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

Housing Authority Procedure

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

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

Housing Authority Procedure

While the applicant is on the waiting list, the applicant must inform the Housing Authority, within ten (10) calendar days, of changes in family size or composition, preference status, income, or contact information, including current residence, mailing address, and phone number. The changes must be submitted through the Applicant Portal ([www.merced-pha.com](http://www.merced-pha.com)).

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

**4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204(c)]**

HUD requires the Housing Authority to establish procedures to use when removing applicant names from the waiting list.

**Purging the Waiting List**

Housing Authority Procedure

The waiting list will be purged as necessary. The Housing Authority may notify applicants by mail or via email through the Applicant Portal to ensure that the waiting list is current and accurate. The written notification will ask for confirmation of continued interest.

Any written notification to the applicant, which require a response, will state that failure to respond within ten (10) calendar days will result in the applicant's name being removed

from the waiting list. An extension of thirty (30) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability. See Chapter 2-Fair Housing and Equal Opportunity for further information regarding reasonable accommodations.

If a letter is returned by the Post Office without a forwarding address or is deemed undelivered via email through the Applicant Portal, the applicant will be removed from the waiting list without further notice, and the envelope with letter or email notification will be maintained in the file. If a letter is returned with a forwarding address, the Housing Authority will make no more than one (1) attempt to forward the letter to the new forwarding address before removing the applicant from the waiting list(s).

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Director of Housing Programs or his/her designee determines there were circumstances beyond the person's control.

### **Removal from the Waiting List**

#### Housing Authority Procedure

The Housing Authority will remove applicants from the waiting list if they have requested in writing that their name be removed. In such cases no informal hearing is required.

If the Housing Authority determines that the applicant is not eligible for admission (see Chapter 3-Eligibility) at any time while the applicant is on the waiting list the applicant will be removed from the waiting list.

If an applicant is removed from the waiting list because the Housing Authority has determined the applicant is not eligible for admission, a notice will be sent to the applicant's address of record as well as to any alternate address provided on the initial application or contact form. The notice will state the reasons the applicant was removed from the waiting list and will inform the applicant how to request an informal review regarding the Housing Authority's decision (see Chapter 14-Grievances and Appeals) [24 CFR 960.208(a)].

## **PART III: TENANT SELECTION**

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

The Housing Authority must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The Housing Authority must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The Housing Authority must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which applicants will be selected from the waiting list depends on the selection method chosen by the Housing Authority and is impacted in part by any selection preferences that the applicant qualifies for. The availability of units also may affect the order in which applicants are selected from the waiting list.

The Housing Authority must maintain a clear record of all information required to verify that the applicant is selected from the waiting list according to the Housing Authority's selection policies [24 CFR 960.208(e)(2)]. The Housing Authority's policies must be posted any place where the Housing Authority receives pre-applications. The Housing Authority must provide a copy of its tenant selection policies upon request to any applicant or tenant. The Housing Authority may charge the applicant for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

#### Housing Authority Procedure

When an applicant or resident family requests a copy of the Housing Authority's tenant selection procedure, the Housing Authority will provide copies to them at a charge of \$0.35 per page.

#### **4-III.B. SELECTION METHOD**

Housing Authority must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the Housing Authority will use.

#### **Local Preferences [24 CFR 960.206]**

Housing Authorities are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the Housing Authority to establish other local preferences, at its discretion. Any local preferences established must be consistent with the Housing Authority plan and the relevant jurisdiction consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

#### Housing Authority Procedure

The Housing Authority will use the following local preferences:

**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.

**10 points: Involuntarily Displaced:** Families who have been displaced due to a locally declared disaster, state declared disaster, federally declared disaster or other national emergency. It will also be given to those families that are involuntarily displaced by Authority action (emergency relocation, extensive rehabilitation and insufficient funding or other local disasters) as approved by the Executive Director. New applicants to the Public Housing Program must be a family displaced within the last six (6) months by a natural disaster, including disasters recognized by the Federal government, which extensively damaged or destroyed their dwelling or:

- Is dilapidated as cited by city/county officials of a local code enforcement office and

does not provide safe, adequate shelter, has one or more critical defects or a combination of defects requiring considerable repair or endangers the health, safety, and well-being of the family.

- Has been declared unfit for habitation by a government agency.

**15 points: Residency Preference:** Families who live, work, or have been hired to work within Merced County and/or residents moving to Merced County who currently participate in an education or training program designed to prepare the individual for the job market at time of selection from the waiting list.

Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area.

HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

**10 points: Elderly or Disabled Person Preference:** An elderly preference applies if the head, spouse or co-head are a person who is age 62 or older. A disabled person preference applies if the head, spouse or co-head receives Social Security or Supplemental Security benefits or otherwise meets the definition of disabled as defined under Section 223 of the Social Security Act.

The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

- Date and time of receipt of a completed application.

#### **SPECIAL ADMISSIONS**

If HUD awards a Housing Authority program funding that is targeted for specifically named families, the Housing Authority will admit these families under a special admission procedure. Special admission families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list.

The Housing Authority maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian 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

Home- ownership Act of 1990;

- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

**Income Targeting Requirement [24 CFR 960.202(b)]**

Not less than 40 percent of the families admitted to the Housing Authority's public housing program during the Housing Authority's fiscal year from the Housing Authority's waiting list shall be Extremely Low Income (ELI) families. This is called the "basic targeting requirement." To ensure this requirement is met, the Housing Authority may skip non-ELI families on the waiting list in order to select an ELI family.

Admission of ELI families to the Housing Authority's Housing Choice Voucher Program during the same Housing Authority fiscal year is credited against the basic targeting requirement.

A Housing Authority must comply with both the targeting requirement and the deconcentration requirements found in part 24 CFR 903.

**Credit for Admissions to the Housing Authority's Housing Choice Voucher Program**

If admissions of ELI families to the Housing Authority's Housing Choice Voucher Program during a Housing Authority's fiscal year exceeds the seventy-five (75) percent minimum targeting requirement for the Housing Authority's Housing Choice Voucher Program [24 CFR 982.201(b)(2)], such excess shall be credited (subject to the limitations in 24 CFR 982.201 (b)(2)(ii)) against the Housing Authority's basic targeting requirement for the same fiscal year.

The fiscal year credit for Housing Choice Voucher Program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

- Ten (10) percent of public housing waiting list admissions during the Housing Authority fiscal year;
- Ten (10) percent of waiting list admission to the Housing Authority's Housing Choice Voucher Program during the Housing Authority fiscal year; or
- The number of qualifying low-income families who commence occupancy during the fiscal year of the Housing Authority's public housing units located in census tracts with a poverty rate of thirty (30) percent or more. For this purpose, qualifying low income family means a low-income family other than an extremely low-income family.



The Housing Authority will monitor its progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

**Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]**

The Housing Authority's admission Procedure must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the Housing Authority's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

The Housing Authority's deconcentration Procedure must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments.

Developments not subject to deconcentration and income mixing requirements:

- Public housing developments operated by a Housing Authority with fewer than 100 public housing units;
- Public housing developments operated by a Housing Authority who house only elderly or disabled families, or both;
- Public housing developments operated by a Housing Authority which consist of only one general occupancy, family public housing development;
- Public housing developments approved for demolition or for conversion to tenant-based public housing;
- Public housing developments approved for demolition or for conversion to tenant-based assistance; and
- Public housing developments which include public housing units operated in accordance with HUD-approved mixed-finance plan using HOPE VI, Choice Neighborhoods, Jobs Plus Pilot Program or public housing funds awarded before the effective date of this rule provided that the Housing Authority certifies (and includes reason for this certification) as part of the PHA Plan (which may be accomplished either in the Annual Plan submission or as a significant amendment to its PHA Plan) that exemption from the regulation is necessary to honor an existing contractual agreement or be consistent with a mixed finance plan, including provisions regarding the incomes of public housing residents to be admitted to that development, which has been developed in consultation with residents with rights to live at the affected development and other interested persons. [24 CFR 903.2(b)].

**Steps for Implementation [24 CFR 903.2(c)(1)]**

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the Housing Authority must comply with the following steps:

Housing Authority Procedure

The Housing Authority uses median income instead of average income.

- *Step 1.* A Housing Authority shall determine the average income of all families residing in all the Housing Authority's covered developments. A Housing Authority may use median income, instead of average income, provided that the Housing Authority includes a written explanation in its PHA Annual Plan justifying use of median income in the PHA's Annual Plan.
- *Step 2.* A Housing Authority shall determine the average income of all families residing in each covered development. In determining average income for each development, a Housing Authority has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.
- *Step 3.* A Housing Authority shall determine whether each of its covered developments falls above, within or below the Established Income Range (EIR). The EIR is from 85 to 115 percent (inclusive) of the average family income (the Housing Authority -wide average income for covered developments as defined in Step 1), except that the upper limit shall never be less than the income at which a family would be defined as an extremely low income family under 24 CFR 5.603(b).
- *Step 4.* A Housing Authority with covered developments having average incomes outside the EIR may explain or justify the income profile for these developments as being consistent with and furthering two sets of goals:
  - The goals of deconcentration of poverty and income mixing as specified by the statute (bringing higher income tenants into lower income developments and vice versa); and
  - The local goals and strategies contained in the PHA Annual Plan. Elements of explanations or justifications that may satisfy these requirements may include, but shall not be limited to the following:
    - The covered development or developments are subject to consent decrees or other resident selection and admission plans mandated by court action;
    - The covered development or developments are part of the Housing Authority's programs, strategies or activities specifically authorized by statute, such as mixed-income or mixed-finance developments, homeownership programs, self-sufficiency strategies, or other strategies

designed to deconcentrate poverty, promote income mixing in public housing, increase the incomes of public housing residents, or the income mix is otherwise subject to individual review and approval by HUD;

- The covered development's or developments' size, location, and/or configuration promote income deconcentration, such as scattered site or small developments; or
  - The income characteristics of the covered development or developments are sufficiently explained by other circumstances.
- *Step 5.* Where the income profile for a covered development is not explained or justified in the PHA Annual Plan submission, the Housing Authority shall include in its admission Procedure its specific Procedure to provide for deconcentration of poverty and income mixing in applicable covered developments. Depending on local circumstances, a Housing Authority's deconcentration Procedure (which may be undertaken in conjunction with other efforts such as efforts to increase self-sufficiency or current residents) may include but is not limited to providing for one or more of the following actions:
- Providing incentives designed to encourage families with incomes below the EIR to accept units in developments with incomes above the EIR, or vice versa, including rent incentives, affirmative marketing plans, or added amenities;
  - Targeting investment and capital improvements toward developments with an average income below the EIR to encourage applicant families whose income is above the EIR to accept units in those developments;
  - Establishing a preference for admission of working families in developments below the EIR;
  - Skipping a family on the waiting list to reach another family in an effort to further the goals of the Housing Authority's deconcentration Procedure; or
  - Providing such other strategies as permitted by statute and determined by the Housing Authority in consultation with the residents and the community, through the PHA Annual Plan process, to be responsive to the local context and the Housing Authority's strategic objectives.

A family has the sole discretion whether to accept an offer of a unit made under the Housing Authority's deconcentration Procedure. The Housing Authority must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the Housing Authority's deconcentration Procedure [24 CFR 903.2(c)(4)].

HUD shall consider a Housing Authority to be in compliance with this 24 CFR 903.2 if:

1. The Housing Authority's income analysis shows that the Housing Authority has no general occupancy family developments to which the deconcentration requirements apply; that is, the average incomes of all covered developments are within the EIR;
2. The Housing Authority has covered developments with average incomes above or below the EIR and the Housing Authority provides a sufficient explanation in its Annual Plan that supports that the income mix of such development or developments is consistent with and furthers the goal of deconcentration of poverty and income mixing and also the locally determined goals of the PHA's Annual and Five Year Plans, and the Housing Authority therefore need not take further action to deconcentrate poverty and mix incomes; or
3. The Housing Authority's deconcentration Procedure provides specific strategies the Housing Authority will take that can be expected to promote deconcentration of poverty and income mixing in developments with average incomes outside of the EIR.

#### Housing Authority Procedure

For developments above or below the EIR the Housing Authority will take the following actions to provide for deconcentration of poverty and income mixing:

- Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the Housing Authority.
- When selecting applicants from the waiting list, the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.
- By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of pre-application or higher preference status.
- Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority Procedure.

#### **Order of Selection [24 CFR 960.206(e)]**

The Housing Authority's system of preferences may select applicants either according to the date and time of application or by a random selection process.

#### Housing Authority Procedure

Applicants will be selected from the waiting list based on preferences. Among applicants with the same preference, applicants will be selected on a first-come, first-served basis

according to the date and time their completed pre-application is received by the Housing Authority.

When selecting applicants from the waiting list, the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest-ranking applicant who qualifies for that unit size or type.

By matching unit and family characteristics, it is possible that applicants who are lower on the waiting list may receive an offer of housing ahead of applicants with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority Procedure.

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

When an applicant has been selected from the waiting list, the Housing Authority must notify the family to start the process of determining eligibility.

##### Housing Authority Procedure

The Housing Authority will notify the family by first class mail or via email through the Applicant Portal when they are selected from the waiting list. If applicant fails to submit a complete mailing address or valid email address on the pre-application, notification will not be provided and the applicant will be removed from the waiting list without further notice.

For the convenience of both the Authority and families, the Authority may exercise the option to conduct interviews in person, by videoconference, telephonic, or other methods due to environmental hazards, public health, and safety situations declarations, weather conditions, or other such situations as dictated.

- An Eligibility Packet For Determination of Rental Assistance and a 7-Day Letter of Interest is sent to the applicant selected from the wait list. The following documents are included with the 7-Day Letter of Interest:
  - i. Criminal Background Check Certification Form
  - ii. Consumer History Application (for each family member 18 years old or older)
- If the Eligibility Packet and/or 7-Day letter is returned to the Housing Authority with no forwarding address or is deemed undelivered via email through the Applicant Portal, the applicant will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore, no informal hearing will be offered.
- If the Eligibility Packet and/or 7-day letter is returned with a forwarding address, the Housing Authority will make no more than one (1) attempt to forward the letter to the new forwarding address before removing the applicant from the wait list for

failure to respond.

- All family members 18 years of age or older must each sign and return the above documents along with a copy of a valid driver's licenses (or state-issued photo identification) and copies of social security cards.
- The signed criminal background certification form will remain with file and request submitted to the local law enforcement for processing. Alternatively, the criminal background check and the credit check may be done by a third-party vendor.
- If the applicant passes the criminal background check, a credit check is completed for each member of the household 18 years old or older.
- The applicant will be notified in writing of ineligibility, if the applicant fails the criminal background check. Denied applicants may submit a written request for a review.
- If the applicant passes the credit and criminal background checks, a full application interview appointment will be scheduled to proceed with eligibility determination (See Section 4-III.D-The Application Interview). For the convenience of both the Authority and families, the Authority may exercise the option to conduct interviews in person, by videoconference, telephonic, or other methods due to environmental hazards, public health, and safety situations declarations, weather conditions, or other such situations as dicated.
- If the applicant does not provide all of the required documents to process the full application interview, the applicant will be sent a notice listing documents still needed to determine eligibility.
- If a notification letter is returned to the Housing Authority with no forwarding address or is deemed undelivered via email through the Applicant Portal, the applicant will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore, no informal hearing will be offered.
- If the Notice Pending Eligibility (NPE) is returned with a forwarding address, the Housing Authority will make no more than one (1) attempt to forward the letter to the new forwarding address before removing the applicant from the wait list.

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#### 4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the Housing Authority obtain the information and documentation needed to make a program eligibility determination through a private interview. **Being invited to attend an interview does not constitute admission to the program.**

Reasonable accommodations must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

### Housing Authority Procedure

Applicants selected from the waiting list are required to participate in a program eligibility interview (full application interview). An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For Limited English Proficient (LEP) applicants, the Housing Authority will provide translation services in accordance with the Housing Authority's LEP and Language Access Plan (LAP) plans. ~~The interview may be conducted in person, mail or via GoToMeeting, as designated by the Housing Authority. For the convenience of both the Authority and families, the Authority may exercise the option to conduct interviews in person, by videoconference, telephonic, or other methods due to environmental hazards, public health, and safety situations declarations, weather conditions, or other such situations as dicated.~~

The household composition cannot deviate from the last update provided by the family unless the family member is a result of birth, adoption, or court awarded custody.

- A full application interview letter will be mailed or sent via email through the Applicant Portal to the applicant, as designated by the Housing Authority. If the applicant is unable to attend a scheduled interview, the applicant should contact the Housing Authority in advance of the interview to schedule a new appointment.
- In all circumstances, if an applicant does not attend a scheduled interview, the Housing Authority will send another notification letter or sent via email through the Applicant Portal with a new interview appointment time, as designated by the Housing Authority. Applicants who fail to attend two scheduled interviews without Housing Authority approval will have their pre- applications made inactive (and removed from the waiting list) based on the applicant's failure to supply information needed to determine eligibility.
- The second appointment notification will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the applicant is no longer interested and their application will be made inactive (and removed from the waiting list). Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore, the Housing Authority will not offer an informal hearing.
- The head of household, the spouse/co-head, and all other adult members of the household will be required to attend the full application interview together unless otherwise noted by means of a reasonable accommodation.
- The applicant must provide the information necessary to establish the applicant's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The applicant must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the

Housing Authority will provide the family with a written list of items that must be submitted.

- Any required documents or information that the applicant is unable to provide at the full application interview must be provided within ten (10) calendar days of the interview (See Chapter 7 Verification for additional information about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status).
- If the applicant is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial of admission (see Chapter 3 Part III, Eligibility, Denial of Admission for more information).
- The full application interview will be conducted only if the head of household provides appropriate documentation of legal identity for all household members (Chapter 7-II.G.-Verification provides a description of proper documentation of legal identity).
- If the family representative does not provide the required documentation, the appointment may be rescheduled (within ten (10) calendar days) when the proper documents have been obtained.
- If the applicant is claiming a waiting list preference, the applicant must provide documentation to verify their eligibility for a preference (see Chapter 7-Verification).
- If the applicant is verified by the Housing Authority eligible for the preference, the Housing Authority will proceed with the application interview.
- If the Housing Authority determines the applicant is not eligible for the preference, the interview will not proceed and the applicant will be placed back on the waiting list according to the original date and time of their application.

#### **4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]**

The Housing Authority must verify all information provided by the applicant (Chapter 7-Verification). Based on verified information related to the eligibility requirements, including Housing Authority suitability standards, the Housing Authority must make a final determination of eligibility (Chapter 3-Eligibility).

When a determination is made that an applicant is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

#### Housing Authority Procedure

The Housing Authority will notify an applicant in writing of their eligibility within ten (10)



calendar days of the eligibility determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The Housing Authority must promptly notify any applicant determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

If the Housing Authority uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the Housing Authority can move to deny the application. See Chapter 3- Eligibility (Section 3-III.F) for the Housing Authority's Procedure regarding such circumstances.

Housing Authority Procedure

If the Housing Authority determines that the applicant is ineligible, the Housing Authority will send written notification of the ineligibility determination within ten (10) calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14- Grievances and Appeals).

## **Chapter 5 OCCUPANCY STANDARDS AND UNIT OFFERS**

### **INTRODUCTION**

The Housing Authority must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The Housing Authority's waiting list and selection policies are contained in Chapter 4-Applications, Waiting List and Tenant Selection. Together, Chapter 4-Applications, Waiting List and Tenant Selection and Chapter 5-Occupancy Standards and Unit Offers, of the ACOP comprise the Housing Authority's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the Housing Authority's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains the Housing Authority's policies for making unit offers, and describes actions to be taken when unit offers are refused.

### **PART I: OCCUPANCY STANDARDS**

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

Occupancy standards are established by the Housing Authority to ensure that units are occupied by families of the appropriate size. This Procedure maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the Housing Authority will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be allowed.

#### **5-I.B. DETERMINING UNIT SIZE**

In selecting a family to occupy a particular unit, the Housing Authority may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. Housing Authorities are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children.

Although the Housing Authority does determine the size of unit the family qualifies for under the occupancy standards, the Housing Authority does not determine who shares a bedroom/sleeping room. The Housing Authority's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

Housing Authority Procedure

The Housing Authority will use the same occupancy standards for each of its developments. The Housing Authority's occupancy standards are as follows:

- The Housing Authority will assign one bedroom for each two persons within the household, except in the following circumstances:
- Persons of the opposite sex (other than spouses, and children under age six) will not be required to share a bedroom.
- Persons of different generations will not be required to share a bedroom.
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a one-bedroom unit.
- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.

The Housing Authority will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

**5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

**Types of Exceptions**

Housing Authority Procedure

The Housing Authority will consider granting exceptions to the occupancy standards at the family's request if the Housing Authority determines the exception is justified by the relationship, age, sex, or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities.

When evaluating exception requests the Housing Authority will consider the size and configuration of the unit. In no case will the Housing Authority grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than

designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two (2) years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the Housing Authority may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases, the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

**Processing of Exceptions**  
Housing Authority Procedure

All requests for exceptions to the occupancy standards must be submitted in writing. In the case of a request for exception as a reasonable accommodation, the Housing Authority will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Housing Authority will consider the exception request any time the family indicates that a reasonable accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source.

The Housing Authority will notify the family in writing of the Housing Authority's decision within ten (10) calendar days once the required verification/documentation is received (Please refer to Chapter 2, Part II, Policies Related to Persons with Disabilities for more information on Reasonable Accommodation.)

**PART II: UNIT OFFERS**  
[24 CFR 1.4(b)(2)(ii) and 24 CFR 960.208]

**5-II.A. OVERVIEW**

The Housing Authority must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.

In filling an actual or expected vacancy, the Housing Authority must offer the dwelling unit to an applicant based on the bedroom size and the unit that has been vacant the longest. The Housing Authority will offer the unit until it is accepted. This section describes the Housing Authority's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the Housing Authority's policies for offering units with accessibility features.

Housing Authority Procedure

The Housing Authority will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

**5-11.B. NUMBER OF OFFERS**

Housing Authority Procedure

The Housing Authority has adopted a "two offer plan" for offering units to applicants. Under this plan, the Housing Authority will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. If a suitable unit is available:

- Each applicant gets two offers.
- Applicants may have an incentive to accept the unit offered.
- Unless the applicant has good cause for refusing the first and second offer, the applicant should accept it or be removed from the waiting list.
- The Housing Authority's record-keeping requirement is limited to the offer made, whether it is accepted or refused, and whether the applicant has good cause for refusal (and is entitled to another offer).

**5-11.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

Housing Authority Procedure

Applicants must accept or refuse a unit offer within three (3) business days of the date of the unit offer.

**5-11.D. REFUSALS OF UNIT OFFERS**

**Good Cause for Unit Refusal**

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

Housing Authority Procedure

Applicants may refuse to accept a unit offer for "good cause." Good cause includes but is not limited to situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain on the waiting list until the family receives an offer for which they do not have good cause to refuse. The Housing Authority will require documentation to support the applicant's unit refusal for good cause.

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit

offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

- The family demonstrates to the Housing Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. **Refusals due to location alone do not qualify for this good cause exemption.**
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

#### **Unit Refusal Without Good Cause**

##### Housing Authority Procedure

When an applicant rejects the final unit offer without good cause, the Housing Authority will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14-Grievances and Appeals for more information).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the Housing Authority opens the waiting list.

#### **5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]**

The Housing Authority must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the Housing Authority must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the Housing Authority's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists; then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the Housing Authority may require the applicant to agree

(and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Housing Authority Procedure

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the Housing Authority will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the Housing Authority will require the applicant to agree to move to an available non-accessible unit within thirty (30) calendar days when either a current resident or an applicant need the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

**Chapter 6**  
**INCOME AND RENT DETERMINATIONS**  
**24 CFR Part 5 and 24 CFR 960**

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The Housing 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. This chapter describes HUD regulations and Housing Authority policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to determine a family's annual income. These requirements and Housing Authority policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the Housing Authority to subtract from annual income any of five (5) mandatory deductions for which a family qualifies. These requirements and Housing Authority policies for calculating adjusted income are found in Part II.

Part III: Calculating Rent. This part describes the statutory formula for calculating Total Tenant Payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included in this section are flat rents and the family's choice in rents.

**PART I: ANNUAL INCOME**

**6-I.A. OVERVIEW [24 CFR Part 5]**

The following is the general regulatory definition of *annual income* according to 24 CFR 5.609: Annual income means all amounts, monetary or not, which:

1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
2. Are anticipated to be received from a source outside the family during the twelve (12) month period following admission or the annual reexamination effective date; and
  - i. Which are not specifically excluded in this chapter.
  - ii. Annual income also means amounts derived (during the twelve (12) month period) from assets to which any member of the family has access.

Sections 6-I.B and 6-I.C in this chapter define the general requirements and methods for calculating annual income. The rest of this section defines how each source of income is treated for the purposes of determining annual income.

HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the definitions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed



together in section 6- 1.D). Verification requirements for annual income are defined in Chapter 7-Verification.

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

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

##### **Temporarily Absent Family Members**

The Housing Authority must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

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 hazard duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The Housing Authority will evaluate absences from the unit in accordance with this policy.

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

##### Housing Authority Procedure

An individual who is or is expected to be absent from the public housing unit for ninety (90) consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the public housing unit for more than ninety (90) consecutive days is considered permanently absent and no longer a family member. (See Chapter 9 for Absence of Entire Family).

Exceptions to this general Procedure are discussed below.

##### **Absent Students**

##### Housing Authority Procedure

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

##### **Absences Due to Placement in Foster Care**

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

##### Housing Authority Procedure

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

the child will be counted as a family member.

### **Absences Due to Employment**

#### Housing Authority Procedure

An employed head, spouse, co-head, or other adult family member absent from the unit more than ninety (90) cumulative days due to employment will continue to be considered a family member.

### **Individuals Confined for Medical Reasons**

#### Housing Authority Procedure

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

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

### **Joint Custody of Children**

#### Housing Authority Procedure

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family fifty-one percent (51%) or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Authority will make the determination based on available documents such as court orders, or an IRS tax return showing which family has claimed the child for income tax purposes

### **Caretakers for a Child**

#### Housing Authority Procedure

If neither a parent nor a designated guardian remains in a household receiving assistance, the Housing Authority will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for ninety (90) days. After the ninety (90) days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases, the Housing Authority will extend the caretaker's status as an eligible visitor. (see

Chapter 3, Eligibility, Section 3-1.J, Guest, for more information on guests/visitors)

- At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

#### **6-1.C. ANTICIPATING ANNUAL INCOME**

The Housing Authority is required to count all income “anticipated to be received from a source outside the family during the twelve (12) month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

##### **Basis of Annual Income Projection**

The Housing Authority generally will use current circumstances to determine anticipated income for the upcoming twelve (12) month period. HUD authorizes the Housing Authority to use criteria 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 Housing Authority believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)].
- Housing Authorities are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].
- HUD allows the Housing Authority to use paystubs 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 Housing Authority does not determine it is necessary to obtain additional third-party data.

##### Housing Authority Procedure

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

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

- If EIV or other Upfront Income Verification (UIV) data is not available,

- If the family disputes the accuracy of the EIV employer data, and/or
- If the Housing Authority determines additional information is needed.

In such cases, the Housing 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 Housing Authority annualized projected income.

When the Housing Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Housing 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.

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 Housing Authority to show why the historic pattern does not represent the family's anticipated income.

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

If the Housing Authority verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the twelve (12) month period.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, the Housing Authority will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Housing Authority's Procedure on reexaminations does not require interim reexaminations for other types of changes.

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

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

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

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

##### Housing Authority Procedure

For persons who regularly receive bonuses or commissions, the Housing Authority will verify and then average amounts received for the two (2) years preceding admission or reexamination. If only a one (1) year history is available, the Housing Authority will use the prior year amounts. In either case, the family may provide, and the Housing Authority will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the Housing Authority will count only the amount estimated by the employer.

### **Types of Military Pay**

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

### **Types of Earned Income Not Counted in Annual Income Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]**

This type of income (including gifts) is not included in annual income.

#### Housing Authority Procedure

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

### **Children's Earnings [24 CFR 5.609(c)(1)]**

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Chapter 3-Eligibility, for a definition of *foster children*.)

### **Certain Earned Income of Full-Time Students**

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

### **Income of a Live-in Aide**

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Chapter 3-Eligibility, for a description of 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 (42 U.S.C. 5044(g), 5058);
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b));
- Awards under the federal work-study program (20 U.S.C. 1087 uu);
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931);

#### **Resident Service Stipend [24 CFR 5.609(c)(8)(iv)]**

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

#### **State and Local Employment Training Program [24 CFR 5.609(c)(8)(v)]**

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

#### Housing Authority Procedure

The Housing Authority defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to:

1. Classroom training in a specific occupational skill;
2. On-the-job training with wages subsidized by the program; or
3. Basic education

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

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

#### Housing Authority Procedure

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

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

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

families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

#### **6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]**

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

#### **Earned Income Disallowance Prior to May 9, 2016 Eligibility**

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six (6) months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six (6) month period must be at least \$500.

#### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

#### Housing Authority Procedure

The Housing Authority defines *prior income*, or *pre-qualifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or pre-qualifying, income remains constant throughout the period that EID is received.

#### **Initial 12-Month Exclusion**

During the initial twelve (12) month exclusion period, the full amount (100 percent) of any

increase in income attributable to new employment or increased earnings is excluded. The twelve (12) months are cumulative and need not be consecutive.

#### Housing Authority Procedure

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### **Second 12-Month Exclusion and Housing Authority Phase-In**

During the second twelve (12) month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The twelve (12) months are cumulative and need not be consecutive.

#### **Lifetime Limitation [24 CR 960.255(b)(3)]**

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends forty-eight (48) months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Housing Choice Voucher assistance, or if there are breaks in assistance.

#### Housing Authority Procedure

During the forty-eight (48) month eligibility period, the Housing Authority will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below pre-qualifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

#### **Earned Income Disallowance After May 9, 2016**

##### **Eligibility**

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who has earned, un the twelve months previous to employment, no more than would be received for 1- hours of work per week for 50 weeks at the established minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program.
- New employment or increased earnings by a family member, during or within six (6) months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the Housing Authority in consultation with the local agencies administering temporary assistance for needy families (TANF) and



Welfare- to Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies, and transportation assistance – provided that the total amount received over a six (6) month period is at least \$500.

#### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income."

#### Housing Authority Procedure

The Housing Authority defines *baseline income* as the annual income immediately prior to implementation of the disallowance of a person with disabilities (who is a member of a qualified family),

The family member's prior, or pre-qualifying, income remains constant throughout the period that EID is received.

#### **Initial 12-Month Exclusion**

During the twelve (12) month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the Housing Authority must exclude from the annual income of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

#### Housing Authority Procedure

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### **Phase-In of Rent Increase**

Upon the expiration of the twelve (12) month period defined in the Initial 12-Month Exclusion in and for the subsequent twelve (12) month period, the Housing Authority must exclude from the annual income of a qualified family member at least fifty (50) percent of any increase in income as a result of employment over the family member's baseline income.

#### **Maximum Two (2) year Disallowance**

The disallowance of increased income of an individual family member as provided in the initial 12-Month Exclusion or the Phase-In of Rent Increase of is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under Initial 12-Month Exclusion and a maximum of 12 months for disallowance under the Phase-In Rent Increase, during the 24-month period starting from the initial exclusion under the Initial 12-Month Exclusion.

Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

Housing Authority Procedure

For families receiving the EID after May 9, 2016, the Housing Authority will conduct an interim reexamination during the twenty-four (24) month eligibility period each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below pre-qualifying income, when one of the exclusion periods ends, and at the end of the maximum two (2) year eligibility period).

**6-I.F. JOBS PLUS EARNED INCOME DISREGARD (JPEID)**

The Housing Authority will implement the Jobs Plus Earned Income Disregard (JPEID) if the Housing Authority is awarded the grant to implement the Job Plus Pilot Program. The Jobs Plus Pilot Program is a locally-based approach to increase earnings and advance employment outcomes for Public Housing residents. The JPEID is a financial incentive for participants in the Jobs Plus Pilot Program. Eligibility criteria and limitations on the disallowance are summarized below.

- Eligibility. All targeted residents in a Jobs Plus development are eligible to receive the JPEID benefit, but they must sign up for the Jobs Plus program, even if they do not actively participate in other Jobs Plus activities. Residents who previously used up some or all of their lifetime EID eligibility are eligible to receive the full JPEID benefit.
- Term Length. The JPEID is in effect for a continuous period of the Jobs Plus grant, beginning when a participant first increases earned income over baseline.
- Disregarded Amount. The JPEID excludes 100 percent of incremental earned income for the entire period of the Jobs Plus program.

**6-I.G. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

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

**Business Expenses**

Net income is gross income less business expense.

Housing Authority Procedure

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

**Business Expansion**

HUD regulations do not permit the Housing Authority to deduct from gross income expenses

for business expansion.

#### Housing Authority Procedure

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

#### **Capital Indebtedness**

HUD regulations do not permit the Housing Authority to deduct from gross income the amortization of capital indebtedness.

#### Housing Authority Procedure

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

#### **Negative Business Income**

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

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

HUD regulations require the Housing Authority to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

#### Housing Authority Procedure

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, the Housing Authority will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

#### **Co-owned Businesses**

##### Housing Authority Procedure

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

#### **6-I.H. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)] Overview**

There is no asset limitation for participation in the public housing program. However, HUD requires that the Housing Authority include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the Housing Authority must determine the value of the asset in order to

compute income from the asset. Therefore, for each asset type, this section describes:

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

### **General Policies**

This section begins with a description of general policies related to assets and then provides HUD rules and Housing Authority policies related to each type of asset.

### **Income from Assets**

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

1. An imminent change in circumstances is expected;
2. It is not feasible to anticipate a level of income over 12 months; or
3. The Housing Authority believes that past income is the best indicator of anticipated income.

For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the Housing Authority can take into consideration past rental income along with the prospects of obtaining a new tenant.

### Housing Authority Procedure

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the Housing Authority to show why the asset income determination does not represent the family's anticipated asset income.

### **Valuing Assets**

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

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

### Housing Authority Procedure

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

### **Lump-Sum Receipts**

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account). (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-1.H and 6-1.I.)

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

When net family assets are \$5,000 or less, the Housing Authority will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the Housing Authority will include in annual income the greater of:

1. The actual income derived from the assets; or
2. The imputed income.

Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

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

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

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

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

### **Jointly Owned Assets**

The regulation at 24 CFR 5.609(a)(3) specifies that annual income includes "amounts derived (during the twelve (12) month period) from assets to which any member of the family has access."

### Housing Authority Procedure

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Housing Authority will count the full value of the asset. A family

member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

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

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

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

**Minimum Threshold**

The Housing Authority may set a threshold below which assets disposed of for less than fair market value will not be counted.

Housing Authority Procedure

The Housing Authority will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two (2) years exceeds the gross amount received for the assets by more than \$1,000.

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

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

**Separation or Divorce**

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

Housing Authority Procedure

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

**Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

## **Family Declaration**

### Housing Authority Procedure

Families must sign a declaration form at initial examination and each annual reexamination identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

The Housing Authority may verify the value of the assets disposed of if other information available to the Housing Authority does not appear to agree with the information reported by the family.

## **Types of Assets**

### **Checking and Savings Accounts**

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero (0).

### Housing Authority Procedure

In determining the value of a checking account, the Housing Authority will use the average monthly balance for the last three (3) months.

In determining the value of a savings account, the Housing Authority will use the current balance.

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

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

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

### Housing Authority Procedure

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Housing Authority will calculate asset income based on the earnings for the most recent reporting period.

### **Equity in Real Property or Other Capital Investments**

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

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation

A family may have real property as an asset in two ways:

1. Owning the property itself; or
2. Holding a mortgage or deed of trust on the property

In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero (0).

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

#### Housing Authority Procedure

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

#### **Trusts**

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

#### **Revocable Trusts**

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

#### **Non-revocable Trusts**

In cases where a trust is not revocable by, or under the control of, any member of a family,



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

## **Retirement Accounts**

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

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the Housing Authority must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

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

### **IRA, Keogh, and Similar Retirement Savings Accounts**

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

## **Personal Property**

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

### Housing Authority Procedure

In determining the value of personal property held as an investment, the Housing Authority will use the family's estimate of the value. However, the Housing Authority also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

Necessary items of personal property such as furniture or automobiles are not considered assets [24 CFR 5.603(b)].

### Housing Authority Procedure

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

### **Life Insurance**

The cash value of a life insurance Procedure available to a family member before death, such as a whole life or universal life Procedure, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a Procedure earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

### **6-1.1. PERIODIC PAYMENTS [24 CFR 5.609]**

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

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

The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in 24 CFR 5.609(c)(14)).

Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum. Periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family.

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

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

### **Housing Authority Procedure**

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

See the Chapter 9-Reexaminations, for information about a family's obligation to report lump-sum receipts between annual reexaminations.

### **Treatment of Overpayment Deductions from Social Security Benefits [Notice PIH 2018-24]**

An overpayment occurs when SSA pays an individual more than s/he should have been paid. If this happens, SSA will notify the individual and his/her designated representative payee, if applicable. Recovery of an overpayment is made by withholding the monthly Social Security check until the overpayment is paid in full (individuals receiving SS benefits), unless the individual requests a lesser withholding amount and SSA approves the request. Full withholding would start thirty (30) days after SSA notification of the overpayment. SSA begins deducting money (for overpayment recovery) from SSI payments at least sixty (60) days after SSA notification of the overpayment. Generally, SSA will withhold ten (10) percent of the maximum federal SSI benefit rate each month.

However, an individual may request that less be taken from their benefit, or an individual may ask to pay back the overpayment at a rate greater than ten (10) percent.

Regardless of the amount withheld to repay SSA the overpayment amount, or the length of the anticipated withholding period, the Housing Authority must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. The Housing Authority should be cognizant of the SSA-determined overpayment amount and length of time the reduced payment will occur, to ensure the family's accurate rent contribution for the duration of reduced income; however, circumstances may arise affecting the end date of the withholding period, causing it to go on longer than anticipated.

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

- 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) [24 CFR 5.609(c)(2)].

#### **Housing Authority Procedure**

The Housing Authority will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(c)(14)].

#### **6-I.J. PAYMENTS IN LIEU OF EARNINGS**

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the f periodic payments in section 6-I.H and the lump-sum receipts in section 6-I.G.)

**6-I.K. WELFARE ASSISTANCE**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

**Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The Housing Authority must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

**Covered Families [24 CFR 5.615(B)]**

Covered families are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)].

**Imputed Income**

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the Housing Authority must include in annual income “imputed” welfare income. The Housing Authority must request that the welfare agency inform the Housing Authority when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits:

1. At the expiration of the lifetime or other time limit on the payment of welfare benefits;
2. If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements; or
3. Because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon the Housing Authority’s denial of a family’s request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14-Grievances and Appeals.

**Offsets**

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR

5.615(c)(4)].

**6-I.L. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]** Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

**Alimony and Child Support**

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

Housing Authority Procedure

The Housing Authority will count court-awarded amounts for alimony and child support unless the Housing Authority verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

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

**Regular Contributions or Gifts**

The Housing Authority must count as income regular monetary and non-monetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Housing Authority Procedure

Examples of regular contributions include:

1. Regular payment of a family's bills (e.g., utilities, telephone, cell phone, rent, credit cards, cable/satellite, personal hygiene/maintenance; hair, nails, etc., school tuition, pet food/maintenance and car payments and insurance).
2. Cash or other liquid assets provided to any family member on a regular basis.
3. "In-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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

**6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)].
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)].
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Temporary income payments from the U.S. Census Bureau, defined as employment lasting no longer than 180 days per year and not culminating in permanent employment.
- Amounts specifically excluded by any other federal statute [24 CFR 5.609]. HUD publishes an updated list of these exclusions periodically. It includes:
  - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
  - b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
  - c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
  - d. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- f. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, Section 6)
- g. The first \$2,000 of per capita shares received from judgment funds awarded by the Nation Indian Gaming Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- h. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(g));
- i. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in In Re Agent-Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
- j. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1728);
- k. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- l. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- m. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- n. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- o. Any allowance paid under the provisions of 38 U.S.C. 1833© to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05, children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spins bifida (38 U.S.C. 1821);

- p. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- q. Any amount received under the Richard B Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Woman, Infants, and Children (WIC);
- r. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- s. Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum or in prospective monthly amounts (42 U.S.C. 1437a(b)(4)); Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
- t. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.) for a period one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (pub L. 111-291); and
- u. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 "exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a));
- v. The entire value of an individual's account established under the Achieving Better Life Experience (ABLE) Act (P.L. 113-295);
- w. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).;
- x. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- y. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs



authorized under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;

- z. Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4)); and
- aa. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

## **PART II: ADJUSTED INCOME**

### **6-II.A. INTRODUCTION**

#### **Overview**

HUD regulations require Housing Authority's to deduct from annual income any of five (5) 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(a).

Mandatory deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

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

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7-Verifications.

#### **Anticipating Expenses**

##### Housing Authority Procedure

Generally, the Housing Authority will use current circumstances to anticipate expenses.

When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the Housing Authority will estimate costs based on historic data and known future costs.

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

#### **6-II.B. DEPENDENT DEDUCTION**

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

#### **6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

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

Un-reimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 years of age or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

#### **Definition of Medical Expenses**

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

#### Housing Authority Procedure

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

##### Housing Authority Procedure

This Procedure applies only to families in which the head, spouse, or co-head is 62 years of age or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Housing Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively

to enable a person with disabilities to work.

**6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Disability assistance expenses are reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source [24 CFR 5.603(b)].

In determining adjusted income, the Housing Authority must deduct the sum (to the extent the sum exceeds three percent (3%) of annual income) of unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.

**Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one (1) family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)]. The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

**Housing Authority Procedure**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the Housing Authority will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Housing Authority determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

**Eligible Disability Expenses**  
**Auxiliary Apparatus**

Examples of auxiliary apparatus provided in HUD's Public Housing Occupancy Guidebook are as follows:

- Wheelchairs

- Walkers
- Motorized scooters
- Reading devices for persons with visual disabilities
- Equipment added to cars and vans to permit their use by the family member with a disability
- Service animals

The auxiliary apparatus is an eligible disability expense only if these items are directly related to permitting the disabled person or other family member to work. HUD advises Housing Authority's to further define and describe auxiliary apparatus.

Housing Authority Procedure

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, are included.

**Attendant Care**

The family determines the type of attendant care that is appropriate for the person with disabilities. Examples of attendant care provided in HUD's Public Housing Occupancy Guidebook are as follows:

- In-home care
- Adult day care
- Nursing
- Housekeeping
- Personal care
- Errand services
- An interpreter for persons who are hearing impaired
- A reader for persons with visual disabilities

Housing Authority Procedure

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the Housing Authority will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

#### **Payments to Family Members**

No disability expenses may be deducted for payments to a member of a tenant family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

#### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### Housing Authority Procedure

The Housing Authority determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Housing Authority will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the Housing Authority will consider, the family's justification for costs that exceed typical costs in the area.

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

##### Housing Authority Procedure

This Procedure applies only to families in which the head, spouse, or co-head is 62 years of age or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Housing Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

#### **6-II.F. CHILD CARE EXPENSE DEDUCTION [24 CFR 5.603(b)]**

HUD defines *child care expenses* as the amounts anticipated to be paid by the family for the care of children **under thirteen (13) years of age** during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the

amount deducted shall not exceed the amount of employment income that is included in annual income.

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses.

### **Qualifying for the Deduction**

#### **Determining Who Is Enabled to Pursue an Eligible Activity**

##### **Housing Authority Procedure**

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Housing Authority will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### **Seeking Work**

##### **Housing Authority Procedure**

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the Housing Authority.

#### **Furthering Education**

##### **Housing Authority Procedure**

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

#### **Being Gainfully Employed**

##### **Housing Authority Procedure**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full or part-time) for which a family member is compensated.

**Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care, although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000 (See Chapter 9- Reexaminations).

The Housing Authority must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

Housing Authority Procedure

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the Housing Authority generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

**Eligible Child Care Expenses**

The type of care to be provided is determined by the tenant family. The Housing Authority may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

**Allowable Child Care Activities**

Housing Authority Procedure

For school-age children (under 13 years of age), costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the Housing Authority will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 years of age or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon

the number of hours spent in each activity and/or the number of persons under care.

#### **Necessary and Reasonable Costs**

Child care expenses will be considered necessary if:

1. A family adequately explains how the care enables a family member to work, actively seek employment, or further education; and
2. The family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### Housing Authority Procedure

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the Housing Authority will use the schedule of child care costs from the local welfare agency. Families may present, and the Housing Authority will consider, justification for costs that exceed typical costs in the area.

#### **6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]**

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the Housing Authority offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

#### Housing Authority Procedure

The Housing Authority has opted not to use permissive deductions.

### **PART III: CALCULATING RENT**

#### **6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS**

The first step in calculating income-based rent is to determine each family's Total Tenant Payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to either the family or directly to the utility company by the Housing Authority.

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:



1. Thirty percent (30%) of the family's monthly adjusted income;
2. Ten percent (10%) of the family's monthly income;
3. 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 which is so designated; or
4. The minimum rent as determined in accordance with 24 CFR 5.630.

**Welfare Rent [24 CFR 5.628]**

Housing Authority Procedure

Welfare rent does not apply in this locality.

**Minimum Rent [24 CFR 5.630]**

The Housing Authority has the right to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Housing Authority Procedure

The minimum rent is \$50.

**Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2)]**

The Housing Authority has been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the Housing Authority, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income- based rents, and the required flat and minimum rents.

The Housing Authority's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to Housing Authority designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

Housing Authority Procedure

The Housing Authority has not adopted optional changes to income-based rents.

**Ceiling Rents [24 CFR 960.253 (2)(d)]**

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing. Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that

is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities).

Housing Authority Procedure

The Housing Authority does not utilize ceiling rents.

**Utility Reimbursement [24 CFR 960.253(c)(3)]**

he income-based tenant rent must not exceed the total tenant payment (\$5.628 of this title) for the family minus any applicable utility allowance for tenant paid utilities. If the utility allowance exceeds the total tenant payment, the Housing Authority shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the Housing Authority elects to pay the utility supplier, the Housing Authority must notify the family of the amount of the utility reimbursement paid to the supplier.

Housing Authority Procedure

The Housing Authority may make utility reimbursements, due to the tenant each month, payable to the gas and electric company.

**6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630(b)]**

**Overview**

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the Housing Authority determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

Housing Authority Procedure

The financial hardship rules described below apply because the Housing Authority has established a minimum rent of \$50.

**HUD-Defined Financial Hardship**

According to HUD, financial hardship includes the following situations:

1. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, 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.

Housing Authority Procedure

A hardship will be considered to exist only if the loss of eligibility determination for a Federal, State, or local assistance program has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:

- i. Implementation of assistance, if approved; or
- ii. The decision to deny assistance.

A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances stated below.

- 2. The family would be evicted because it is unable to pay the minimum rent.

Housing Authority Procedure

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- 3. Family income has decreased because of changed family circumstances, including the loss of employment.

Housing Authority Procedure

In order to qualify under this provision, the family must provide third-party proof of the decrease of income (see Chapter 9-Reexaminations).

- 4. A death has occurred in the family.

Housing Authority Procedure

In order to qualify under this provision, the family must provide third-party proof the death occurred and describe in writing how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- 5. The family has experienced other circumstances determined by the Housing Authority.

Housing Authority Procedure

The Housing Authority has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

**Determination of Hardship**

When a family requests a financial hardship exemption, the Housing Authority must suspend the minimum rent requirement beginning the first of the month following the family's request.

The Housing Authority then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

Housing Authority Procedure

The Housing Authority defines temporary hardship as a hardship expected to last ninety (90) days or less. Long term hardship is defined as a hardship expected to last more than ninety (90) days.

The Housing Authority may not evict the family for nonpayment of minimum rent during

the ninety (90) day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>			
Assume the Housing Authority has established a minimum rent of \$50.			
<b>TTP – No Hardship</b>		<b>TTP – With Hardship</b>	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$35	10% of monthly gross income	\$35	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
Minimum rent applies. TTP = \$50		Hardship exemption granted. TTP = \$35	

**Housing Authority Procedure**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. The Housing Authority will make the determination of hardship within thirty (30) calendar days.

**No Financial Hardship**

If the Housing Authority determines there is no financial hardship, the Housing Authority will reinstate the minimum rent and require the family to repay the amounts back-owed from the beginning of the suspension. For procedures pertaining to grievance hearing requests based upon the Housing Authority's denial of a hardship exemption, see Chapter 14-Grievances and Appeals.

**Housing Authority Procedure**

The Housing Authority will require the family to repay the suspended amount within thirty (30) calendar days of the Housing Authority's notice that a hardship exemption has not been granted.

**Temporary Hardship**

If the Housing Authority determines that a qualifying financial hardship is temporary, the Housing Authority must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the Housing Authority the amounts suspended. HUD requires the Housing Authority to offer a reasonable repayment agreement, on terms and conditions established by the Housing Authority. The Housing Authority also may determine that circumstances have changed and the hardship is now a long- term hardship.

For procedures pertaining to grievance hearing requests based upon the Housing Authority's denial of a hardship exemption, see Chapter 14-Grievances and Appeals.

#### Housing Authority Procedure

The Housing Authority will enter into a repayment agreement in accordance with the Housing Authority's repayment agreement Procedure (see Chapter 16-Program Administration).

#### **Long-Term Hardship**

If the Housing Authority determines that the financial hardship is long-term, the Housing Authority must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### Housing Authority Procedure

The hardship exemption period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

#### **6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E] Overview**

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the Housing Authority must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16-Program Administration.

#### **Reasonable Accommodation [24 CFR 8.11]**

On request from a family, Housing Authority must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability.

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability. See Chapter 2-Fair Housing and Equal Opportunity for policies related to reasonable accommodations.

### **Utility Allowance Review and Revisions [24 CFR 965.507] Utility Allowance**

#### **Review**

The Housing Authority shall review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to the standards stated in 24 CFR 965.505, shall establish revised allowances. The review shall include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the Housing Authority) indicating probability of a significant change in reasonable consumption requirements and changes in utility rates.

#### **Revision as a Result of Rate Changes**

The Housing Authority may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of ten (10) percent or more from the rates on which such allowances were based. Adjustments to resident payments as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes shall not be subject to the sixty (60) day notice requirement of 24 CFR 965.502(c).

The tenant rent calculations must reflect any changes in the Housing Authority's utility allowance schedule [24 CFR 960.253(c)(3)].

#### Housing Authority Procedure

Unless the Housing Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

#### **6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520 (d)]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The Housing Authority must prorate the assistance provided to a mixed family. The Housing Authority will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. The Housing Authority must prorate the family's assistance by:

- *Step 1.* Determining total tenant payment in accordance with 24 CFR 913.107(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- *Step 2.* Subtract the total tenant payment from the PHA established flat rent applicable to the unit. The result is the maximum subsidy for which the family could

qualify if all members were eligible ("family maximum subsidy") When the mixed family TTP is greater than the flat rent, the Housing Authority must use the TTP as the mixed family TTP.

- *Step 3.* Dividing the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy".
- *Step 4.* Multiplying the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members").

The product of steps 1 through 4, as set forth in paragraph (d)(2) of this section is the amount of subsidy for which the family is eligible ("eligible subsidy"). The family's rent is the " " the Housing Authority established flat rent minus the amount of eligible subsidy.

#### **6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253] Flat Rents [24 CFR 960.253(b)]**

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the Authority is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9- Reexaminations, and policies related to the establishment and review of flat rents are contained in Chapter 16-Program Administration.

#### **Family Choice in Rents [24 CFR 960.253] Annual Choice by Family**

Once a year, the Authority must give each family the opportunity to choose between the two methods for determining the amount of tenant rent payable monthly by the family. The family may choose to pay as tenant rent either a flat rent or an income-based rent as indicated below:

#### **Flat Rent**

The Authority will review flat rents as needed to ensure that flat rents continue to mirror market rent values.

- The Housing Authority will set the flat rents at no less than eight percent (80%) of the published Fair Market Rent.
- The Authority must use a reasonable method to determine the flat rent for a unit.

To determine the flat rent, the Housing Authority must consider:

- The location, quality, size, unit type and age of the unit; and

- Any amenities, housing services, maintenance and utilities provided by the Authority.
- The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.
- If the family chooses to pay a flat rent, the Authority does not pay any utility reimbursement.
- The Authority must maintain records that document the method used to determine flat rents, and also show how flat rents are determined by the Authority in accordance with this method, and document flat rents offered to families.

**Income-based Rent.**

- An income-based rent is a tenant rent that is based on the family's income and the Authority's policies for determination of such rents.
- The Authority rent policies may specify that the Authority will use percentage of family income or some other reasonable system to determine income-based rents. The Authority rent policies may provide for depositing a portion of tenant rent in an escrow or savings account, for imposing a ceiling on tenant rents, for adoption of permissive income deductions [see 24 CFR 5.611(b)], or for another reasonable system to determining the amount of income-based tenant rent.
- The income-based tenant rent must not exceed the total tenant payment [24 CFR 5.628] for the family minus any applicable utility allowance for tenant-paid utilities. If the utility allowance exceeds the total tenant payment, the Housing Authority shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the Housing Authority elects to pay the utility supplier, the Housing Authority must notify the family of the amount of utility reimbursement paid to the utility supplier.

Housing Authority Procedure

The Housing Authority may make utility reimbursements to the gas and electric company.

Regardless of whether the family chooses to pay a flat rent or income-based rent, the must pay at least the minimum rent as determined in accordance with 24 CFR 5.630.

Housing Authority Procedure

The annual Housing Authority offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The Housing Authority will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.



~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that a family not be offered a choice of rent more than once a year. Alternatively, a PHA may give families no more than two opportunities to choose between a flat rent and an income-based rent within the same one-year period.~~

~~HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

#### **Information for Families**

For the family to make an informed choice about its rent options, the Housing Authority must provide sufficient information for an informed choice. Such information must include at least the following written information:

- The Housing Authority's policies on switching type of rent in circumstances of financial hardship, and
- The dollar amounts of tenant rent for the family under each option. If the family chose a flat rent for the previous year, the Housing Authority is required to provide the amount of income-based rent for the subsequent year only the year the Housing Authority conducts an income reexamination or if the family specifically requests it and submits updated income information. For a family that chooses the flat rent option, the Housing Authority must conduct a reexamination of family income at least once every three (3) years.

#### **Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]**

A family that is paying a flat rent may at any time request a switch to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship. The Housing Authority must adopt written policies for determining when payment of flat rent is a financial hardship for the family.

#### Housing Authority Procedure

Upon determination by the Housing Authority that a financial hardship exists, the Housing Authority will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

If the Housing Authority determines that the family is unable to pay the flat rent because of financial hardship, the Housing Authority must immediately allow the requested switch to income-based rent. The Housing Authority shall make the determination within a reasonable time after the family request.

The Housing Authority policies for determining when payment of flat rent is a financial hardship must provide that financial hardship include the following situations:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and
- Such other situations determined by the Housing Authority to be appropriate.

#### Housing Authority Procedure

The Housing Authority considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

#### **Change in Flat Rents**

##### Housing Authority Procedure

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit.

#### **Flat Rents and Earned Income Disallowance**

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

**Chapter 7**  
**VERIFICATION**  
[24 CFR 960.259, 24 CFR 5.230]

**INTRODUCTION**

The Housing Authority must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. The Housing Authority must not pass on the cost of verification to the family.

The Housing Authority will follow the verification guidance provided by HUD. This chapter summarizes those requirements and provides supplementary Housing Authority policies. Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the Housing Authority.

Part I: General Verification Process. This part contains general verifications requirements.

Part II: Family Verification. This part includes more detailed requirements related to individual factors are provided in subsequent parts including family information.

Part III: Income and Assets. This part contains policies for income and assets verification.

Part IV: Mandatory Deductions. This part contains policies for mandatory deductions.

**PART I: GENERAL VERIFICATION REQUIREMENTS**

**7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]**

**Family Obligation to Supply Information [24 CFR 960.259]**

The family must supply any information that the Housing Authority or HUD determines is necessary in administration of the public housing 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 Housing Authority or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

**Consent by Applicants and Participants [24 CFR 5.230] Required consent by Applicants and Participants**

Each member of the family of an assistance applicant or participant who is at least eighteen years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

**Consent Authorization**

The assistance applicant shall submit the signed consent forms to the Housing Authority when eligibility under a covered program is being determined. A participant shall sign and

submit consent forms at the next regularly scheduled income reexamination. Assistance applicants and participants shall be responsible for the signing and submitting of consent forms by each applicable family member.

Participants are required to sign and submit consent forms at the next interim or regularly scheduled income reexamination under the following circumstances:

- i. When any person 18 years or older becomes a member of the family;
- ii. (ii) When a member of the family turns 18 years of age; and
- iii. As required by HUD or the Housing Authority in administrative instructions.

**Consent Forms [24 CFR 5.230 (c)]**

According to HUD, the consent forms required shall contain, at a minimum, the following:

- 1. A provision authorizing HUD and Housing Authority's to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation and to maintain continued assistance under a covered program;
- 2. A provision authorizing HUD, Housing Authority's, or the owner responsible for determining eligibility for or the level of assistance to verify with previous or current employer's income information pertinent to the assistance applicant's or participant's eligibility for or level of assistance under a covered program;
- 3. A provision authorizing HUD to request income return information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the assistance applicant's or participant's eligibility or level of benefits; and
- 4. A statement that the authorization to release the information requested by the consent form expires fifteen (15) months after the date the consent form is signed.

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form.

HUD and the Housing Authority may collect information from State Wage Information Collection Agencies (SWICA) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. The head of household is also required to sign the Supplemental Information to Applicants for Assistance Form.

**Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the Housing Authority will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the Housing Authority's grievance procedures

(see Chapter 14-Grievances and Appeals).

**7-I.B. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516] [PIH 2018-18 (HA)]**

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

**HUD’s Verification Hierarchy [Notice PIH 2010-19 (HA), as extended by Notice PIH 2015-02, 2017-12, 2018-18]**

Housing Authorities should begin with the highest level of verification techniques.

All verifications, regardless of technique, require the Housing Authority to review the Income Validation Tool (IVT) information at the time of reexamination and for multiple subsidy payments. The Housing Authority is required to review the Enterprise Income Verification (EIV) Former Tenant and Existing Tenant Reports for any SSA matches involving another Housing Authority or a Multi-family entity and follow-up on any issues identified. The Housing Authority is required to maintain the report and documentation of any follow-up in the tenant file. If the tenant is a new admission to the Housing Authority, and a match is identified at a Multi-family property, the Housing Authority must report the program admission date to the Multi-family property and document the notification in the tenant file.

Housing Authorities also need to obtain an Income Report for each household. The Housing Authority is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition. If the Income Report does not contain any employment and income information for the family, the Housing Authority should attempt the next lower level verification technique, as noted in the below chart.

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> using HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (not available for income verifications of applicants)	<b>Highest</b> (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
4	<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)

3	<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 Housing Authority; and when the applicant or tenant is unable to provide acceptable documentation)
2	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<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. However, EIV is not available for verifying income of applicants.

The Housing Authority utilizes HUD’s Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, 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 Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing 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.

**Third-Party Verification Techniques**

**Upfront Income Verification (UIV) (Level 6/5)**

The verification of income before or during a family reexamination through an independent source that systematically and uniformly maintains income information in computerized form for a 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 Housing 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 Housing Authority is required to obtain at a minimum, two (2) current and consecutive pay stubs for determining annual income from wages. The Housing Authority will continue to request six (6) current and cumulative paycheck stubs. For new income sources or when two (2) pay stubs are not available, the Housing Authority should project income based on the information from a traditional written third-party verification form or the best available information.

**Note:** Documents older than sixty (60) days (from the Housing Authority interview/determination or request date) **are** acceptable for confirming dates of income.

The Housing 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), ask the participant/household member to utilize the following option:

- While meeting with the applicant, help the applicant ask the resident to request a benefit verification letter from SSA's website, Social Security Online, at [www.socialsecurity.gov](http://www.socialsecurity.gov). This service is free and SSA will send the letter to the applicant within ten (10) days. To access the site for requesting benefit verification letters, go to the Social Security Online front page, click on the [Online Services](#) link; click on the applicable link. For example: If the individual receives Social Security benefits or has Medicare, click on the [Get your benefit verification letter](#) link; or, if individual receives Supplemental Security Income (SSI), click on the [Get your benefit verification letter](#) link and follow the instructions on the [Information about the Proof of Income Letter](#) page; **or**
- Ask the participant to request a [Proof of Income Letter](#) from SSA's toll-free number at 1-800-772-1213. Persons with speech or hearing impairments may call SSA's toll-free telephone typewriter (TTY) number 800-325-0778, Monday through Friday, between 7:00 a.m. and 7:00 p.m.

\*Note: SSA encourages SS and SSI recipients to use SSA's web site rather than the tollfree number to request Proof of Income letters.

**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 Agency request in a reasonable time frame, i.e. ten (10) business days. When this method is used, staff will be required to document in the file, the name of the person contacted and telephone number, the date and time of the conversation, and the facts provided. The following time line should be followed:

- If the attempt at the written third-party verification failed, you need to call to the employer/agency and document information obtained on the "Third Party Oral Verification Form".
- If oral third party is not available, the Housing Authority will document the attempts and move on to the next method of verification, "non-third-party verification". The Housing 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 or notarized statement of reported income and/or expenses to the Housing Authority. This verification method should be used as a last resort when the Housing Authority has not been successful in obtaining information via all other verification techniques. When the Housing Authority relies on the tenant declaration, the Housing Authority must document on the Method of Verification (MOV) Form the reason(s) why third-party verification was not available.

**Third party verification requirements.** In accordance with 24 CFR 960.259(c)(1) and 24 CFR 982.516(a)(2), the Agency must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third-party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

##### **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 Housing Authority is required to document the reason(s) why third-party verification was not available.

The Housing 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 Housing Authority requires additional information that is not available in EIV and/or the tenant is unable to provide the Housing Authority with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:
  - i. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
  - ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
  - iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.).

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing and HCV waivers is in most cases extended to June 30, 2021.** HUD is waiving the requirement that PHAs must use the income hierarchy described by PHH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV.~~

~~If a PHA opts to conduct annual recertifications rather than delaying them. PHAs may consider self-certification as the highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented for the written record by PHA staff), through an email or postal mail with a self-certification form by the tenant, or through other electronic communication. Income and family composition examinations and recertifications do not have to be conducted in-person.~~

~~PHA that implement this waiver will be responsible for addressing material income discrepancies that may arise later. The period of availability for waiver is extended to June 30, 2021.~~

~~HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

**If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the Agency is required to take the following actions:**

1. Discuss the income discrepancy with the tenant; and
2. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and

3. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the Agency is required to request from the third-party source, any information necessary to resolve the income discrepancy; and
4. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively\*; and
5. Take any other appropriate action as directed by HUD or the Agency administrative policies.

\*The Agency 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 Agency's determination of tenant rent underpayment.

## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### Housing Authority Procedure

The Housing 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) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID 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.

If none of these documents can be provided and at the Housing Authority's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the Housing Authority and be signed in the presence of a Housing Authority representative or Housing Authority notary public. Legal identity will be verified on an as needed basis.

### 7-II.B. DISCLOSURE OF SOCIAL SECURITY NUMBERS [PIH Notice 2010-3 (HA)]

Families are required to provide verification of Social Security Numbers (SSN) for all family members prior to admission. If the Housing Authority determines that the assistance applicant is otherwise eligible to participate in a program, the assistance 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; or
- Such other evidence of the SSN as HUD may prescribe in administrative instructions.

If a child under the age of 6 years was added to the assistance applicant household within the 6- month period prior to the household's date of admission the assistance applicant may become a participant, so long as the documentation referenced in the bullets above is provided to the Housing Authority within 90 calendar days from the date of admission into the program. The Housing Authority must grant an extension of one additional 90-day period if the Housing Authority determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation referenced in the bullets above within the required time period, the processing entity must follow the provisions of 24 CFR 5.218.

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.

Disclosure Requirements

Disclosure of Social Security Numbers is required. The requirements of this section apply to applicants and participants. Each applicant and participant must submit complete and accurate Social Security Numbers assigned to the applicant and to each member of the applicant's household.

Each person, except those 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 an SSN;
- Previously disclosed an SSN that HUD or the SSA determined was invalid; or
- Been issued a new SSN

Once an applicant has provided Social Security Numbers for the household and the Housing Authority has verified each SSN, the following rules apply:

*Addition of new household member who is at least six (6) years of age or under the age of*

*six (6) and has an assigned SSN.* When the participant requests to add a new household member who is at least six (6) years of age, or is under the age of six (6) and has an assigned SSN, the participant must provide the following to the Housing Authority at the time of the request, or at the time of processing the interim reexamination or reexamination of family composition that includes the new member(s):

- An original SSN card issued by SSA;
- An original SSA-issued document, which contains the name and SSN of the individual; or
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

*Addition of new household member who is under the age of six (6) and has no assigned SSN.* When a participant requests to add a new household member who is under the age of six (6) and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child within ninety (90) calendar days of the child being added.

The Housing Authority shall grant an extension of one (1) additional ninety (90) day period if the processing entity, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant.

When determining eligibility, each applicant must submit the information to the Housing Authority. If applicant does not provide requested SSN and Housing Authority determines that the applicant is otherwise eligible 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 complete and accurate SSN assigned to each member of the household except for children under the age of 6 who were added to the household within the last six (6) months (same rules apply with regard to extensions granted to obtain SSN).

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

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

**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 Federal Register May 24, 2001), if the reexamination screening reveals that the tenant or a member of the tenant's 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 reexamination forms, the Housing Authority will propose termination of tenancy. The Housing Authority will use the following process at initial eligibility and at each reexamination determination:

- Ask households whether any member is subject to a lifetime registration requirement under a state sex offender registration program.
- Use the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.

Aggressively pursue termination of tenancy or assistance, as appropriate, for tenant's subject to a State lifetime sex offender registration requirement to the extent currently allowed by law.

**7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable. Age must be verified only once during continuously-assisted occupancy.

Housing Authority Procedure

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Housing Authority will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

**7-II.D. FAMILY RELATIONSHIPS**

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Chapter 3-Eligibility.

Housing Authority Procedure

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

**Marriage**

Housing Authority Procedure

- Certification by the head of household is normally sufficient verification. If the Housing Authority has reasonable doubts about a marital relationship, the Housing Authority will require the family to document the marriage.
- A marriage certificate generally is required to verify that a couple is married.
- In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

**Separation or Divorce**

Housing Authority Procedure

- Certification by the head of household is normally sufficient verification. If the

Housing Authority has reasonable doubts about a separation or divorce, the Housing Authority will require the family to document the divorce, or separation.

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**  
Housing Authority Procedure

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**  
Housing Authority Procedure

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**7-II.E. VERIFICATION OF STUDENT STATUS**

Housing Authority Procedure

The Housing Authority requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head; or
- The family claims a child care deduction to enable a family member to further his or her education.

**7-II.F. DOCUMENTATION OF DISABILITY**

The Housing Authority must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The Housing Authority is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The Housing Authority may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Authority receives a verification document that provides such information, the Housing Authority will not place this information in the tenant file. Under no circumstances will the Housing Authority request a resident's medical record(s).

**Family Members Receiving Social Security Administration (SSA) Disability**

**Benefits** Verification of receipt of disability benefits from the SSA is sufficient for verification of disability for the purpose of certain income disallowances and deductions

Housing Authority Procedure

For family members claiming disability who receive disability payments from the SSA, the Housing Authority will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the Housing Authority will request a current (dated within the last sixty (60) days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the Housing Authority will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family receives the benefit verification letter, they will be required to provide the letter to the Housing Authority.

**Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability is not sufficient verification that the individual meets HUD's definition of disability in order to be eligible for certain income disallowances and deductions.

Housing Authority Procedure

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See Chapter 3-Eligibility.

**7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

**Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See Chapter 3-Eligibility for detailed discussion of eligibility requirements. This chapter discusses HUD and Housing Authority verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

**U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 years of age or older and by a guardian for minors. The Housing Authority may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Housing Authority Procedure

Family members who claim U.S. citizenship or national status will not be required to provide

additional documentation unless the Housing Authority receives information indicating that an individual's declaration may not be accurate.

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

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by the U.S. Citizenship and Immigration Services (USCIS). Each family member must declare their status once.

Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the Housing Authority hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The Housing Authority will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

- United States Birth Certificate
- United States Passport
- Resident alien/registration card
- Social Security card
- Other appropriate documentation as determined by the Housing Authority (See Section 7-II.A, Verification of Legal Identity, for more information)

Eligible immigrants, who are 62 years of age or over, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents, which are copied front and back and returned to the family. The Housing Authority verifies the status through the U.S. Citizenship and Immigration Services. If this primary verification fails to verify status, the Housing Authority must request within ten (10) days that the USCIS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on a student visa are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

**Failure to Provide Required Information**

If an applicant or participant family member fails to sign required declarations and consent



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

**Time of Verification**

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

The Housing Authority will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

For family members added after other members have been verified, the verification occurs at the same time the member is added to the household or at the first reexamination after the new member moves in.

**Extensions of Time to Provide Documents**

The Housing Authority will grant an extension of thirty (30) days for families to submit evidence of eligible immigrant status.

**Acceptable Documents of Eligible Immigration**

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

- Alien Registration Receipt Card (I-551)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688 A or B)
- Receipt issued by the U.S. Citizenship and Immigration Services for issuance or replacement of any of the above documents that shows individual's entitlement has been verified.

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

If the Housing Authority determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for twenty-four (24) months, unless the ineligible individual has already been considered in prorating the family's assistance.

**Housing Authority Verification**

For family members 62 years of age or older who claim to be eligible immigrants, proof of age is required in the manner described in this chapter. No further verification of eligible immigration status is required.

For family members under the age of 62 years of age who claim to be eligible immigrants,

the Housing Authority must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). The Housing Authority will follow all USCIS protocols for verification of eligible immigration status.

**Systematic Alien Verification for Entitlements (SAVE) When Verification Is To Occur [24 CFR 5.512.]**

Verification of eligible immigration status shall be conducted by the Housing Authority simultaneously with verification of other aspects of eligibility for assistance under a 214 covered program. The Housing Authority shall verify eligible immigration status in accordance with USCIS procedures:

**Primary Verification**

Automated verification system

Primary verification of the immigration status of the person is conducted by the Housing Authority through the USCIS automated system, SAVE. The SAVE system provides the following information:

- Alien Registration Number
- Verification Number
- First Name
- Last Name
- Immigration Status messages

*Failure of primary verification to confirm eligible immigration status.*

If the USCIS primary verification response is "Institute Secondary Verification," secondary verification must be performed.

**Secondary Verification**

Manual search of USCIS records

Secondary verification is a manual search by the USCIS of its records in an attempt to determine an individual's immigration status. The Housing Authority must request secondary verification, within ten (10) days of receiving the results of the primary verification.

*Secondary verification initiated by Housing Authority.*

Secondary verification is initiated by the Housing Authority forwarding photocopies (front and back) of the original USCIS documents attached to the USCIS form G-845S (Document Verification Request) to a designated USCIS office.

*Failure of secondary verification to confirm eligible immigration status.*

If the secondary verification does not confirm eligible immigration status, the Housing Authority shall issue the family a notice, which includes notification of appeal to the USCIS of the USCIS finding on immigration status (see Chapter 3-Eligibility, 3-11.B., Citizenship or Eligible Immigration Status).

Exemption from Liability for USCIS Verification. The Housing Authority shall not be liable for any action, delay, or failure of the USCIS in conducting the automated or manual verification.

**7-II.H. VERIFICATION OF PREFERENCE STATUS**

The Housing Authority must verify any local preferences (see Chapter 4- Applications, Waiting List and Tenant Selection) claimed by an applicant.

**PART III: VERIFYING INCOME AND ASSETS**

Any assets and income reported by the family must be verified. Chapter 6-Rent and Income Determinations, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. This part provides Housing Authority policies that supplement the general verification procedures specified in Part I of this chapter.

**7-III.A. EARNED INCOME**

**Tips**

Housing Authority Procedure

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

**7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

Housing Authority Procedure

- Business owners and self-employed persons will be required to provide:
  - Audited financial statements for the previous fiscal year, if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
  - All schedules completed for filing federal and local taxes in the preceding year.
  - If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
  - The Housing Authority will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
  - At any annual or interim reexamination, the Housing Authority may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

- If a family member has been self-employed less than three (3) months, the Housing Authority may accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the Housing Authority will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS SSA/SSI Benefits**

#### Housing Authority Procedure

1. To verify the SSA/SSI benefits of applicants, the Housing Authority will request a current (dated within the last sixty (60) days) SSA benefit verification letter from each family member who receives social security benefits.
  - a. If a family member is unable to provide the document, the Housing Authority will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family has received the original benefit verification letter, they will be required to provide the letter to the Housing Authority.
2. To verify the SSA/SSI benefits of participants, the Housing Authority will obtain information about SSA/SSI benefits through HUD's EIV system.
  - a. If benefit information is not available in the EIV system, the Housing Authority will request a current (dated within the last sixty (60) days) SSA benefit verification letter from each family member who receives social security benefits.
  - b. If a family member is unable to provide the document, the Housing Authority will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family has received the benefit verification letter, they will be required to provide the letter to the Housing Authority.

### **7-III.D. ALIMONY OR CHILD SUPPORT**

#### Housing Authority Procedure

The way the Housing Authority will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

- If the family declares that it **receives regular payments**, verification will be sought in the following order:
  1. If payments are made through a state or local entity, the Housing Authority will request a record of payments for the past twelve (12) months and request that the entity disclose any known information about the likelihood of future payments.
  2. Third-party verification from the person paying the support.
  3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

4. Copy of the latest check and/or payment stubs.
5. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
  - If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:
    - A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts.
    - If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

Note: Families are not required to undertake independent enforcement action.

**7-III.E. ASSETS AND INCOME FROM ASSETS**  
**Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two (2) years. The Housing Authority needs to verify only those certifications that warrant documentation.

Housing Authority Procedure

The Housing Authority will verify the value of assets disposed of only if:

- The Housing Authority does not already have a reasonable estimation of its value from previously collected information; or
- The amount reported by the family in the certification appears obviously in error.

**7-III.F. NET INCOME FROM RENTAL PROPERTY**

Housing Authority Procedure

The family must provide the following documentation regarding net income from a rental property:

- A current executed lease for the property that shows the rental amount or certification from the current tenant.
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the Housing Authority will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank

statements or amortization schedules showing monthly interest expense.

### **7-III.G. RETIREMENT ACCOUNTS**

#### Housing Authority Procedure

When third-party verification is not available, the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the Housing Authority may accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than six (6) months from the effective date of the examination.
- *Upon* retirement, the Housing Authority will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the Housing Authority will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.H. INCOME FROM EXCLUDED SOURCES**

A detailed description of excluded income is provided in Chapter 6-Income and Rent Determinations, Part I, Annual Income.

The Housing Authority must obtain verification for income exclusions only if, without verification, the Housing Authority would not be able to determine whether the income is to be excluded.

For example: If a family's 16-year-old has a job at a fast food restaurant, the Housing Authority will confirm that Housing Authority records verify the child's age but will not send a verification request to the restaurant.

#### Housing Authority Procedure

The Housing Authority will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified. In all other cases, the Housing Authority will report the amount to be excluded as indicated on documents provided by the family.

### **7-III.I. ZERO ANNUAL INCOME STATUS**

#### Housing Authority Procedure

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, Temporary Assistance for Needy Families (TANF), SSI, etc. are not being received by the household. The family may be required to complete a Monthly Expenditure Form. The Housing Authority may request information from the State Employment Development Department and the IRS. The Housing Authority may run a credit report if information is received that indicates the family has an unreported income source. Interim reexaminations will occur

every ninety (90) days.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs must use the income hierarchy described by PHH Notice 2018-18. HUD will allow PHAs to forgo third party income verification requirements for annual reexaminations, including the use of EIV.~~

~~If a PHA opts to conduct annual recertifications rather than delaying them, PHAs may consider self-certification as the highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented for the written record by PHA staff), through an email or postal mail with a self-certification form by the tenant, or through other electronic communication. Income and family composition examinations and recertifications do not have to be conducted in-person.~~

~~PHA that implement this waiver will be responsible for addressing material income discrepancies that may arise later. The period of availability for waiver is extended to June 30, 2021.~~

~~HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the Housing Authority verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

The Housing Authority will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child.
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student.

See Chapter 6-Income and Rent Determinations, Section 6-II.B., Dependent Deductions for more information discussion on this deduction.

#### **Elderly/Disabled Family Deduction**

The Housing Authority will verify that the head, spouse, or co-head is 62 years of age or

older or a person with disabilities. See Chapter 3-Eligibility, 3-I.B., Family and Household, for a definition of elderly and disabled families and Chapter 6-Income and Rent Determinations Section 6-II.C., Elderly or Disabled Family Deduction for more information for a discussion on the deduction.

#### **7-IV.B. MEDICAL EXPENSE DEDUCTION**

The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the Housing Authority must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Policies related to medical expenses are found in Chapter 6-Income and Rent Determinations, Section 6-II.D, Medical Expenses Deduction for more information.

#### **Amount of Expense**

##### Housing Authority Procedure

The Housing Authority will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible;
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case, the Housing Authority will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Housing Authority will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve (12) months.

#### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 years of age or a person with disabilities. The Housing Authority will verify that the family meets the definition of an elderly or disabled family provided in the Chapter 3-Eligibility, and as described in Chapter 7-Verification Section 7-IV.A, Dependent and Elderly/Disabled Household Deductions of this plan.

#### **Qualified Expenses**

To be eligible for the medical expense deduction, the costs must qualify as medical expenses. See Chapter 6-Income and Rent Determinations, Section 6-II.D., Elderly or



Disabled Family Deduction for the Housing Authority's Procedure on what counts as a medical expense.

**Unreimbursed Expenses**

To be eligible for the medical expense deduction, the costs must not be reimbursed by another source.

Housing Authority Procedure

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

**Expenses Incurred in Past Years**

Housing Authority Procedure

When anticipated costs are related to on-going payment of medical bills incurred in past years, the Housing Authority will verify:

- The anticipated repayment schedule;
- The amounts paid in the past; and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

**7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in Chapter 6-Income and Rent Determinations, Section 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter.

**Amount of Expense**

**Attendant Care**

Housing Authority Procedure

The Housing Authority will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible.
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve (12) months.

**Auxiliary Apparatus**

The Housing Authority must verify that the family member for whom the expense is incurred is a person with disabilities. The expense permits a family member, or members, to work. The expense is not reimbursed from another source (see Chapter 6-Income and Rent Determinations).

#### Housing Authority Procedure

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus.
  
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming twelve (12) months.
  
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming twelve (12) months.

#### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The Housing Authority will verify that the expense is incurred for a person with disabilities.

#### **Family Member(s) Permitted to Work**

The Housing Authority must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### Housing Authority Procedure

- The Housing Authority will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6-Income and Rent Determinations.).
  
- If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

#### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### Housing Authority Procedure

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

#### **7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6-Income and Rent Determinations. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the Housing Authority

must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child *under* the age of 13. The Housing Authority will verify that the child being cared for (including foster children) is *under* the age of 13 (See Section 7-II.C. of this chapter).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

Housing Authority Procedure

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

**Pursuing an Eligible Activity**

The Housing Authority must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities in order to be eligible for the child care deduction.

Housing Authority Procedure

Information to be Gathered: The Housing Authority will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work: Whenever possible the Housing Authority will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, the Housing Authority will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the Housing Authority any reports provided to the other agency.

In the event third-party verification is not available, the Housing Authority will provide the family with a form on which the family member must record job search efforts. The Housing Authority will review this information at each subsequent reexamination for which this deduction is claimed.

**Furthering Education:** The Housing Authority will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

**Gainful Employment:** The Housing Authority will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines.

Housing Authority Procedure

The Housing Authority will verify that the type of child care selected by the family is allowable, as described in Chapter 6-Income and Rent Determinations (6-II.F).

The Housing Authority will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child.

The Housing Authority will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

Housing Authority Procedure

To establish the reasonableness of child care costs, the Housing Authority may use the schedule of child care costs from the local welfare agency. Families may present, and the Housing Authority will consider, justification for costs that exceed typical costs in the area.

**U.S. Department of Housing and Urban Development (HUD) Privacy Protection Guidance for Third Parties (PIH 2015-06)**

1) **Purpose:** This notice informs all public housing agencies (PHAs) about their responsibilities for 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. c) 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:

- (a) *The Contractor agrees to—*  
(1) *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.* PII 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.

a) Contractors and third-party business partners should take the following steps to help ensure compliance with federal requirements:

**i) Security Awareness and Privacy Training**

1. 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** are policies, procedures, and practices designed to decrease the likelihood, manage the impact, or minimize the effect of a threat exploiting a vulnerability
2. 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
3. PHAs 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.

**ii) Limit Collection of PII**

1. Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.
2. 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.

**iii) 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.

**iv) 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.
5. Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.
6. 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.
7. Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.

**v) 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.

**vi) Protecting Hard Copy Transmissions of Files Containing Sensitive PII**

1. 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.
2. Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.
3. 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.

**vii) 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.

**viii) 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 LEASING AND INSPECTIONS

### INTRODUCTION

Leases are the basis of the legal relationship between the Housing Authority and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the Housing Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the Housing Authority may require additional inspections in accordance with Housing Authority Procedure.

This chapter is divided into two parts as follows:

Part I: Leasing. Part I contains regulatory information, when applicable, as well as the Housing Authority's policies governing leasing issues. This part describes pre-leasing activities and the Housing Authority's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes the Housing Authority's policies for inspecting dwelling units.

## PART I: LEASING

### 8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of the lease. The lease must meet all of HUD's regulatory requirements, and must also comply with applicable state and local laws and codes.

The lease shall have a twelve (12) month term. Except as provided in 24 CFR 966.4 (a)(2)(ii), the lease term must be automatically renewed for the same period of twelve (12) months. According to 24 CFR 966.4 (a)(2)(ii), the Housing Authority may not renew the lease if the family has violated the requirement for resident performance of community service or participation in an economic self-sufficiency program (See Chapter 11-Community Service for more information).

### 8-I.B. LEASE ORIENTATION

#### Housing Authority Procedure

After unit acceptance but prior to occupancy, a Housing Authority representative will provide the lease orientation to the family. All adult family members 18 years of age and over are required to attend the orientation. ~~The orientation will be conducted in-person or via GoToMeeting, as designated by the Housing Authority. For the convenience of both the Authority and families, the Authority may exercise the option to conduct the lease orientation in person, by videoconference, telephonic, or other methods due to environmental hazards, public health, and safety situations declarations, weather conditions, or other such situations as dicated.~~

#### Lease Orientation Agenda

#### Housing Authority Procedure

When families attend the lease orientation, at a minimum they will be provided with the following documents:

1. A copy of the lease
2. A copy of the Housing Authority's grievance procedure
3. A copy of the house rules
4. A copy of the Housing Authority's schedule of maintenance charges
5. A copy of the pamphlet *Protect Your Family From Lead in Your Home*
6. A copy of *Things You Should Know* (HUD-1140-OIG)
7. A copy of *Is Fraud Worth It?* (HUD-1141)
8. A copy of *What You Should Know About EIV*
9. Any other applicable forms.

The topics discussed will include, but not be limited to, the following:

1. Applicable deposits and other charges.
2. Review and explanation of lease provisions and applicable addendums.
3. Unit maintenance and work orders requests.
4. Reporting requirements (for example, income or family composition changes).
5. Explanation of occupancy forms.
6. Community service requirements.
7. Applicable lease addendums (Non-Smoking Procedure, Pet Procedure, Pool Addendum, Cable Procedure)

**8-I.C. EXECUTION OF THE LEASE**

The lease is executed at the time of admission for all new residents by the tenant and the Housing Authority, except for automatic renewals of the lease [24 CFR 966.4(a)(3)]. In addition, a new lease is also executed at the time of transfer from one Housing Authority unit to another.

The lease must state the composition of the household as approved by the Housing Authority (family members and any Housing Authority-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D., for policies regarding changes in family composition during the lease term.

Housing Authority Procedure

The head of household, spouse or co-head, and all other adult members of the household will be required to sign the lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the Housing Authority will retain the original in the resident's file.

Resident files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to Housing Authority assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

**8-I.D. MODIFICATIONS TO THE LEASE**

The lease may be modified at any time by written agreement of the tenant and the Housing Authority [24 CFR 966.4(a)(3)].

**Modifications to the Lease Form**

Schedules of special charges for services, repairs and utilities and rules and regulations, which are required to be incorporated in the lease by reference, shall be publicly posted in a conspicuous manner in the rental office and shall be furnished to applicants and tenants on request.

Such schedules, rules and regulations may be modified from time to time by the Housing

Authority provided that the Housing Authority shall give at least a thirty (30) day written notice to each affected tenant identifying the proposed modification, the reasons for the changes, and providing the tenant an opportunity to present written comments which shall be taken into consideration by the Housing Authority prior to the proposed modification becoming effective [24 CFR 966.5]. A copy of such notice shall be:

- a. Delivered directly or mailed to each tenant; or
- b. Posted in at least three (3) conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the rental office, if any, or if none, a similar central business location within the project.

Housing Authority Procedure

The Housing Authority will post notices of proposed lease changes in the following locations:

- 1. The Rental Office of the public housing site;
- 2. The Administration Office of the Housing Authority; and
- 3. The Housing Authority's website (www.merced-pha.com).

The Housing Authority shall provide at least thirty (30) days' notice to tenants and resident organizations identifying proposed changes in the lease form used by the Housing Authority, and providing an opportunity to present written comments. Comments submitted shall be considered by the Housing Authority before formal adoption of any new lease form [24 CFR 966.3].

Housing Authority Procedure

When the Housing Authority proposes to modify or revise schedules of special charges or rules and regulations, the Housing Authority will post a copy of the notice in the Administration Office, and may mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

After the time period for public inspection of the proposed changes has occurred, the proposed changes will be incorporated into the lease and submitted to the Housing Authority's Board of Commissioners for approval. Once the revised lease has been approved by the Board of Commissioners, each family must be notified at least sixty (60) days in advance of the effective date of the new lease form or lease revision.

A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

Housing Authority Procedure

The resident family will have thirty (30) days to accept the revised lease. If the family does not accept the offer of the revised lease within that thirty (30) day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13-Lease Terminations.

After the lease revisions become effective they must be publicly posted in a conspicuous manner in all development rental offices and other appropriate locations and must be furnished to applicants and tenants on request [24 CFR 966.5].

**Other Modifications**

Housing Authority Procedure

- A new lease will be executed to reflect all changes in family composition.
  
- If, for any reason, any member of the household ceases to reside in the unit, the Housing Authority will execute a new lease. All family members 18 years old or older are required to sign the lease.
  
- If a new household member is approved by the Housing Authority to reside in the unit, the Housing Authority will execute a new lease. All family members 18 years old or older are required to sign the lease.
  
- Policies governing when and how changes in family composition must be reported are contained in Chapter 9-Reexaminations.

**8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]**

The Housing Authority will require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the Housing Authority. The Housing Authority may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy.

Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

See Chapter 10-Pet Ownership, regarding pet deposit requirements.

Housing Authority Procedure

Upon signing the lease but before occupying the unit, the resident shall pay a security deposit (in addition to the rent owed) according to the following:

1 Bedroom Units: A minimum security deposit of \$300 or one month's rent, whichever is higher.

2-3 Bedroom Units: A minimum security deposit of \$500 or one month's rent, whichever is higher.

4-5 Bedroom Units: A minimum security deposit of \$800 or one month's rent, whichever is higher.

The Housing Authority will hold the security deposit for the period the family occupies the unit. The Housing Authority will not use the security deposit for rent or other charges while the resident is living in the unit.

Within twenty-one (21) calendar days of the move-out, the Housing Authority will refund to the resident the amount of the security deposit less any amount needed to pay the cost

of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The Housing Authority will provide the resident with a written list of any charges against the security deposit within twenty-one (21) calendar days of the move-out. If the resident disagrees with the amount charged, the Housing Authority will provide an opportunity for the family to meet with a Housing Authority representative to discuss the charges.

If the resident transfers to another public housing unit, the Housing Authority will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit and if applicable any increases in the security deposit for the "new" unit.

**8-I.F. PAYMENTS AND CHARGES UNDER THE LEASE Rent Payments [24 CFR 966.4(b)(1)]**

Families must pay the amount of the monthly tenant rent determined by the Housing Authority in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term. The Housing Authority must give written notice stating any change in the amount of tenant rent and when the change is effective.

Housing Authority Procedure

The tenant rent is due and payable at the Housing Authority-designated location by the 7<sup>th</sup> day of the month. If the 7<sup>th</sup> day of the month falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the Housing Authority will notify the family of the new amount and the effective date by sending a "Notice of Rent Determination" which will become an amendment to the lease.

Rental payments are to be paid by money order, certified check or personal check. All personal checks must be printed with the family name and current address. No two-party checks will be accepted.

**Late Fees [24 CFR 966.4(b)(3)]**

At the option of the Housing Authority, the lease may provide for payment of penalties for late payment. The late fees are not due and collectible until two weeks after the Housing Authority gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the Housing Authority grievance procedures. The Housing Authority must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

Housing Authority Procedure

If the resident fails to make a rent payment by the end of the posted office hours by the 7<sup>th</sup> day of the month, a late fee of \$25 will be charged. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

If a personal check is returned by the bank for any reason (for example, insufficient funds) a returned check fee of \$50 for Non-Sufficient Funds (NSF) will be charged to the tenant's account and the late fee of \$25 will also be applied to the NSF adverse action. The tenant will no longer be eligible to pay with a personal check.

All late and returned check fees must be paid by money order or certified check.

**Other Charges [24 CFR 966.4(b)(2)(3)]**

The lease shall provide for charges to the tenant for maintenance and repair beyond normal wear and tear and for consumption of excess utilities. The lease shall state the basis for the determination of such charges (for example, by a posted schedule of charges for repair, amounts charged for utility consumption in excess of the allowance stated in the lease, etc.). The imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances.

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in all development rental offices and other appropriate locations and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease shall provide that the charges assessed (other than tenant rent) shall not be due and collectible until two weeks after the Housing Authority gives written notice of the charges. Such notice constitutes a notice of adverse action, and must meet the requirements governing a notice of adverse action (see 24 CFR 966.4(e)(8)). The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the Housing Authority grievance procedures. The Housing Authority must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)(ii)(A)].

Housing Authority Procedure

Families will be charged for maintenance and repair beyond normal wear and tear according to the Housing Authority's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable). Nonpayment of maintenance and repair charges is a violation of the lease and is grounds for lease termination.

**PART II: INSPECTIONS**

**8-II.A. OVERVIEW**

HUD regulations require the Housing Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the Housing Authority may



require additional inspections, in accordance with Housing Authority Procedure. This part contains the Housing Authority's policies governing inspections, notification of unit entry, and inspection results.

**8-II.B. TYPES OF INSPECTIONS**

**Move-In (Pre-Occupancy) Inspections [24 CFR 966.4(i)]**

The lease shall provide that the Housing Authority and the tenant or representative shall be obligated to inspect the dwelling unit prior to commencement of occupancy by the tenant. The Housing Authority will furnish the tenant with a written inspection form of the condition of the dwelling unit, and the equipment provided with the unit. The inspection form shall be signed by the Housing Authority and the tenant. A copy of the inspection form shall be provided to the resident and the original shall be retained by the Housing Authority in the resident's file.

Housing Authority Procedure

The Head of Household must attend the initial inspection and sign the inspection form.

**Move-Out (Post-Occupancy) Inspections [24 CFR 966.4(i)]**

The Housing Authority shall be further obligated to inspect the unit at the time the tenant vacates the unit and to furnish the tenant a statement of any charges to be made in accordance with Section 8-I-F above. The Housing Authority should make a provision if the tenant's participation in the Move-Out Inspection is required, unless the tenant vacates without notice to the Housing Authority.

The Housing Authority must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

Housing Authority Procedure

Tenants may request a pre-move-out inspection fourteen (14) days prior to move out to allow the family to prepare the unit for the move-out inspection.

The Housing Authority will provide the tenant with a statement of charges to be applied to the security deposit for maintenance and damage beyond normal wear and tear, within twenty-one (21) business days of conducting the move-out.

**Annual Inspections**

The Housing Authority is responsible for conducting a physical inspection of HUD Housing, to determine compliance in accordance with HUD's Uniform Physical Condition Standards (UPCS). The inspection must be conducted annually unless the program regulations governing the housing provide otherwise or unless HUD has provided otherwise by notice [24 CFR 5.705].

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and~~

~~alternative requirements are necessary for the safe and effective administration of the Public Housing, 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 Notice 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 public housing waivers is in most cases extended to December 31, 2020. HUD is waiving the requirement that PHAs which own or operate public housing to make an annual inspection of each public housing project to determine whether units in the project are maintained to applicable standards and remain safe for residents.~~

~~HUD is waiving the requirement that the PHA must inspect each project during CY 2020. This waiver does not alleviate the PHA of its responsibility to provide safe housing. PHAs are reminded to expeditiously identify, respond to, and address serious conditions that could jeopardize life or property. HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

#### **Quality Control Inspections**

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

#### **Special Inspections**

##### Housing Authority Procedure

Housing Authority staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists
- Pre-REAC (Prior to HUD's Real Estate Assessment Center (REAC) Inspection)

#### **Other Inspections**

##### Housing Authority Procedure

Building exteriors, grounds, common areas and systems will be inspected according to the Housing Authority's maintenance plan.

#### **8-II.C. NOTICE OF ENTRY OF DWELLING UNIT DURING TENANCY [24 CFR 966.4 (j)(k)]**

The lease shall set forth the circumstances under which the Housing Authority may enter the dwelling unit during the tenant's possession thereof, which shall include provision that:

1. Non-Emergency Entries: The Housing Authority shall, upon reasonable advance

notification to the tenant, be permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections (annual inspections) and maintenance, for making improvement or repairs, or to show the dwelling unit for re-leasing. A written statement specifying the purpose of the Housing Authority entry delivered to the dwelling unit at least forty-eight (48) hours before such entry shall be considered reasonable advance notification;

2. Emergency Entries: The Housing Authority may enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists; and
3. If the tenant and all adult members of the household are absent from the dwelling unit at the time of entry, the Housing Authority shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit.

The lease shall provide procedures to be followed by the Housing Authority and the tenant in giving notice one to the other which shall require that:

- Except as provided in the paragraph above regarding emergency entries, notice to a tenant shall be in writing and delivered to the tenant or to an adult member of the tenant's household residing in the dwelling or sent by prepaid first-class mail properly addressed to the tenant; and
- Notice to the Housing Authority shall be in writing, delivered to the rental office or sent by prepaid first-class mail properly addressed.
- If the tenant is visually impaired, all notices must be in an accessible format.

#### Housing Authority Procedure

##### Non-Emergency Entries:

- The Housing Authority will notify the resident in writing at least forty-eight (48) hours prior to any non-emergency inspection. For regular annual inspections, the family may receive at least two (2) weeks written notice of the inspection to allow the family to prepare the unit for the inspection.
- Entry for repairs requested by the family will not require prior notice unless the tenant specifies otherwise. Resident-requested repairs presume permission for the Housing Authority to enter the unit.
- Scheduling of Annual Inspections:
  - Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the Housing Authority at least forty-eight (48) hours prior to the scheduled inspection. The Housing Authority will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The Housing Authority may request verification of such cause.

### **Attendance at Inspections**

Residents are only required to attend the Move-In Inspection. There is no HUD requirement regarding resident participation at annual or other types of inspections.

#### Housing Authority Procedure

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection. If all members of the household are absent from the dwelling unit at the time of entry, the Housing Authority shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit. However, an inspection will be rescheduled once by the Housing Authority if there are only minors occupying the unit at the time of the inspection.

### **8-11.D. RESIDENT AND HOUSING AUTHORITY RIGHTS AND OBLIGATIONS REGARDING NOTIFICATION OF EMERGENCY AND NON-EMERGENCY REPAIRS**

#### **Emergency Repairs [24 CFR 966.4(h)]**

The lease shall set forth the rights and obligations of the tenant and the Housing Authority if the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and shall provide that:

1. The tenant shall immediately notify project management of the damage;
2. The Housing Authority shall be responsible for repair of the unit within a reasonable time: Provided, that if the damage was caused by the tenant, tenant's household or guests, the reasonable cost of the repairs shall be charged to the tenant;
3. The Housing Authority shall offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time; and
4. Provisions shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with #2 above of this list or alternative accommodations not provided in accordance with 3 above, except that no abatement of rent shall occur if the tenant rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household, or guests.

#### Housing Authority Procedure

When conditions in the unit are hazardous to life, health, or safety, the Housing Authority will make repairs or otherwise abate the situation within 24 hours. Defects hazardous to life, health or safety include, but are not limited to, the following:

- 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 or fuel oil leaks;
  - Any electrical problem or condition that could result in shock or fire

- Absence of a working heating system when the inside temperature is below 60 degrees Fahrenheit and there are infants and/or elderly living in the home, or for a reasonable accommodation;
- Utilities provided by the Housing Authority not in service, including no running hot water;
  - Conditions that present the imminent possibility of injury;
  - Obstacles that prevent safe entrance or exit from the unit;
  - Absence of all functioning toilet(s) in the unit;
  - Inoperable smoke detector; and/or
  - Inoperable carbon monoxide detectors.

If the emergency repair damage was caused by a household member or guest, the Housing Authority may take lease enforcement action against the family (see Chapter 13- Lease Terminations).

The family must allow the Housing Authority access to the unit to make repairs.

**Bedbugs [PIH Notice 2012-17]**

The Housing Authority should respond with urgency to any tenant report of bedbugs. Within 24 hours of the tenant report, the Housing Authority should contact the tenant, provide the tenant with information about control and prevention of bedbugs and discuss measures the tenant may be able to take in the unit before the inspection is performed. However, a bedbug inspection and, if necessary, treatment, may take time to schedule. The Housing Authority should endeavor to take appropriate action within a reasonable time period using the guidelines provided below.

Following a report of bedbugs, the Housing Authority or a qualified third party trained in bedbug detection should inspect the dwelling unit to determine if bedbugs are present. It is critical that inspections be conducted by trained staff or third-party professionals. Low level inspections may escape visual detection. For this reason, multiple detection tools are recommended. Recent research indicates that "active" bedbug monitors containing attractants can be effective tools for detecting early infestations. Some licensed pest control applicators use canine detection to verify the presence of bedbugs. The inspection should cover the unit reporting the infestation and no less than surrounding apartments consisting of the units above, below, left and right, and should be completed within three (3) business days of a tenant complaint if possible. If reputable, licensed pest control companies are unattainable within three (3) calendar days, the Housing Authority is required to retain documentation of the efforts to obtain qualified services. If an infestation is suspected but cannot be verified using the methods described above, the Housing Authority should re-inspect the unit(s) periodically over the next several months.

When an infestation is identified, the unit and surrounding units should be treated for bedbugs. Chemical treatments are necessary, but not reliable. Therefore, encasement, interception devices, vacuuming, steaming, freezing and commodity or building heat

treatments may be utilized as part of the bedbug control effort. Infestations are rarely controlled in one visit. Effective treatment may require two to three visits, and possibly more. The length, method and extent of the treatment will depend on the severity and complexity of the infestation, and the level of cooperation of the residents.

A Housing Authority may not deny tenancy to a potential resident on the basis of the tenant having experienced a prior bedbug infestation, nor may give residential preference to any tenant based on a response to a question regarding prior exposure to bedbugs. A Housing Authority may not charge a tenant to cover the cost of bedbug treatment; such costs should be covered by the Housing Authority. HUD reserves the right to approve Lease Addenda. Lease Addenda may not conflict with this Notice.

The tenant will not be expected to contribute to the cost of the treatment effort. The tenant will not be reimbursed the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning services.

Housing Authority Procedure

This Procedure is in accordance to HUD guidance PIH 2012-17 on the growing problem of bedbugs and proper elimination of bedbug infestations. This Procedure outlines the responsibilities of the Housing Authority as well as the rights and responsibilities of the tenants in dealing with bedbug education and elimination procedure.

Tenants will be required to immediately report to the Housing Authority the suspicion of possible bed bugs in a housing unit or other area of the property. Tenants are the first line of defense against bedbug infestations and are encouraged to create living environments that deter bedbugs. Units may be inspected for unreasonable amounts of clutter that create hiding places for bedbugs.

Tenants should be advised of the following:

- A Housing Authority may not deny tenancy to a potential resident on the basis of the tenant having experienced a prior bedbug infestation, nor may an owner give residential preference to any tenant based on a response to a question regarding prior exposure to bedbugs.
- A tenant reporting bedbugs may expect expeditious response and attention by the Housing Authority, but should be advised that an inspection and, if necessary treatment of bedbugs, may take time to schedule. The inspections should occur within three (3) business days of the tenant report when possible.
- Following a report of bedbugs, the Housing Authority or qualified third party trained in bedbug detection should inspect the dwelling unit to determine if bed bugs are present. It is critical that inspections be conducted by trained staff or third-party professionals. The Housing Authority may enter the unit to perform these activities in accordance with the lease
- If bedbug infestation is found in the unit, the tenant may expect treatment to begin within five (5) days of the inspection, though depending on the form of treatment, this may not be possible. Tenant should be advised that treatment may take several weeks.

- Tenants are expected to cooperate with the treatment efforts by allowing for heat treatment of clothing and furniture and refraining from placement of infested furniture or other items in common areas. Tenant cooperation is shown to expedite the control of bedbugs and to prevent spreading of infestation
- The tenant is required to follow the instructions provided by the professional exterminator and pay for proper treatment of all personal items including pets.
- The tenant will not be expected to contribute to the cost of the professional exterminator to treat the unit.
- The tenant will not be reimbursed the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning services.
- The Housing Authority reserves the right to terminate the resident's tenancy and require the resident to vacate the rental unit in the event that the:
  - Resident's action or inaction prevents treatment of an infestation;
  - Resident fails to comply with the requirements of this Procedure

The Housing Authority will respond with urgency to any tenant report of bedbugs. Within 24 hours of the tenant report, the Housing Authority will contact the tenant, provide the tenant with information about bed bugs, and discuss measures the tenant may be able to take in the unit before the inspection is performed. However, a bedbug inspection and, if necessary, treatment takes time to schedule. The Housing Authority will endeavor to take appropriate action within a reasonable time period.

The inspection will cover the unit reporting the infestation and surrounding units consisting of the units to the left and right, and will be completed within three (3) business days of a tenant complaint if possible. If an infestation is suspected but cannot be verified using the methods described above, the Housing Authority should re-inspect the unit(s) periodically over the next several months.

After any infestation and treatment, unit inspections for those units will occur after one month, then again at the three (3) month period and again after six (6) months to verify a pest free environment.

**Non-emergency Repairs**

The Housing Authority shall identify the rights and obligations of the tenant and the Housing Authority regarding making non-emergency (non-life threatening) repairs.

Housing Authority Procedure

The Housing Authority corrects non-life threatening health and safety defects within twenty (20) business days of the inspection date. If the Housing Authority is unable to make repairs within that period due to circumstances beyond the Housing Authority's control (e.g. required parts or services are not available, weather conditions, etc.) the Housing Authority will notify the family of an estimated date of completion.

The family must allow the Housing Authority access to the unit to make repairs.

### 8-II.E. INSPECTION RESULTS (Repairs)

The Housing Authority is obligated to maintain dwelling units and the development in a decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

#### Resident-Caused Damages

##### Housing Authority Procedure

- Damages to the unit by the resident and/or guests/visitors of the resident, beyond normal wear and tear will be charged to the tenant.
- Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.
- **A Notice of Lease Termination will be served to residents if the resident or resident's guests/visitors deliberately disengage the dwelling unit's smoke detector(s) and/or carbon monoxide detector(s).**

#### Housekeeping

##### Housing Authority Procedure

Tenants whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the Housing Authority will provide proper notice of a lease violation.

Upon inspection by the Housing Authority that a non-emergency health or safety risk housekeeping habit exists, a reinspection of the unit will be conducted within thirty (30) days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and **will** result in termination of tenancy in accordance with Chapter 13 Lease Terminations.



**Chapter 9**  
**REEXAMINATIONS**  
**[24 CFR 960.257, 960.259, 966.4]**

**INTRODUCTION**

The Housing Authority is required to monitor each family's income and household composition at least annually, and to adjust the family's rent accordingly. The Housing Authority must adopt admission and occupancy policies concerning conduct of annual and interim reexaminations in accordance with 24 CFR 960.257 and shall conduct reexaminations in accordance with such policies. All annual activities will be coordinated in accordance with HUD Regulations. It is a HUD requirement that families report all changes in household composition. This chapter defines the Housing Authority's Procedure for conducting annual reexaminations and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations. This part discusses the requirements for annual reexamination of income and household composition.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the Housing Authority's policies for conducting full reexaminations of family income and household composition for families paying flat rents.

Part III: Interim Reexaminations. This part includes HUD requirements and Housing Authority policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the Housing Authority must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6- Income and Rent Determination, this part identifies policies that affect these calculations during a reexamination.

**PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]**

**9-I.A. OVERVIEW**

HUD requires that the Housing Authority offer all families the choice of paying income-based rent or flat rent at least annually. The Housing Authority's policies for offering families a choice of rents is located in Chapter 6-Income and Rent Determinations.

For families who pay an income-based rent, the Housing Authority must conduct a reexamination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

In addition, the Housing Authority must review family compliance with the community service requirements, and must verify such compliance annually at least thirty (30) days before the end of the twelve (12) month lease term. If qualifying activities are administered by an organization other than the Housing Authority, the Housing Authority shall obtain

verification of family compliance from such third parties [24 CFR 960.605 (c)(3)].

The Housing Authority is required to obtain information needed to conduct reexaminations. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259]. The Housing Authority may streamline the income determination process for family member with fixed sources of income. [Streamlined Annual Reexaminations [24 CFR Parts 5, 891, 960.257 and 982.516(b), Federal Register Vol. 82, No. 237, December 12, 2017], [PIH 2016-05 (HA)]

Fixed sources of income include:

- Social Security, Supplemental Security income (SSI) and Security Disability Insurance (SSDI)
- Pensions
- Insurance Policies
- Retirement Funds
- Annuities
- Disability or Death benefits

And other sources of income subject to a COLA or rate of interest.

The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the Housing Authority may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The Housing Authority may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the Housing Authority must perform third-party verification of all income sources.

This part contains the Housing Authority's policies for conducting reexaminations of families who choose to pay income-based rents.

#### **9-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

For families who pay an income-based rent, the Housing Authority must conduct a reexamination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)]. The Housing Authority reexamination policies must be in accordance with the Public Housing Agency plan [24 CFR 960.257(c)].

##### Housing Authority Procedure

- Anniversary date is defined as twelve (12) months from the effective date of the family's last annual reexamination or, date of admission to Public Housing.
- The Housing Authority may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

#### **Notification of and Participation in the Annual Reexamination Process**

The Housing Authority is required to obtain information needed to conduct annual reexaminations. The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements [24 CFR 960.259].

#### Housing Authority Procedure

- Families are required to participate in an annual reexamination appointment (in-person or online through the Resident Portal, as designated by the Housing Authority), which must be attended by the head of household, spouse or co-head, and any other adult members. If participation in an in-person appointment poses a hardship because of a family member's disability, the family should contact the Housing Authority to request a reasonable accommodation.
- Families will be notified of an annual reexamination appointment. The notification will contain the date, time, and location of the in-person appointment or instructions to launch the annual reexamination through the Resident Portal. In addition, the family will be informed of the information and documentation that must be brought/submitted to the appointment.
- If the family is unable to attend a scheduled appointment, the family should contact the Housing Authority in advance of the appointment to schedule a new appointment. In all circumstances, if a family does not attend the scheduled appointment, the Housing Authority will send a second notification with a new appointment time.
- If a family fails to attend two scheduled appointments without Housing Authority approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13 Lease Terminations.
- An advocate, interpreter, or other assistant may assist the family in the reexamination process. (See the Housing Authority's Language Access Plan (LAP) for additional information)

#### **9-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

The terms of the lease require the tenant to furnish such information and certifications regarding family composition and income as may be necessary for the Housing Authority to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size [24 CFR 966.4(c)(2)].

The information provided by the family must be verified in accordance with the policies in Chapter 7-Verification. Certain types of information that have already been verified by the Housing Authority at the time of admission to the public housing program, typically do not need to be re-verified on an annual basis, unless the family reports a change, requests to add a family member or the Housing Authority has reason to believe a change has occurred in information previously reported by the family. Types of information that typically does not need to be re- verified at reexamination include the following:

- Legal identity

- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

**Housing Authority Procedure**

- Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a Housing Authority designated reexamination packet, as well as supporting documentation related to the family's income, expenses, and household composition.
- Any required documents or information that the family is unable to provide at the time of the appointment must be provided within ten (10) calendar days of the appointment. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.
- If the Housing Authority designates the annual reexamination process to be done through the Resident Portal, the entire reexamination will be conducted electronically.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13, Lease Terminations.

**Change in Unit Size**

Changes in family or household composition may make it necessary to consider transferring the family to another public housing unit to comply with occupancy standards. The Housing Authority may use the results of the annual reexamination to require the family to move to an appropriate unit size [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12, Transfer Procedure.

**Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the Procedure in Chapter 13, Lease Terminations, Section 13.IV.B., Conducting Criminal Records Checks.

**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 reexamination screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose criminal history on the application and/or reexamination forms, the Housing Authority will propose termination of tenancy. The Housing Authority will use the following at each reexamination determination:

1. Ask households whether any member is subject to a lifetime registration requirement under a state sex offender registration program.
2. Use the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.
3. Aggressively pursue termination of tenancy or assistance, as appropriate, for tenant's subject to a state lifetime sex offender registration requirement to the extent currently allowed by law.

#### Housing Authority Procedure

Each household member 18 years of age and over will be required to sign a consent form for a criminal background check as part of the annual reexamination process.

#### **Compliance with Community Service**

For families who include individuals that are not exempt from the community service requirement, the Housing Authority must determine compliance once each twelve (12) months with community service and self-sufficiency requirements in 24 CFR 950, Subpart F [24 CFR 960.257(a)(3)]. See Chapter 11, Community Service for the Housing Authority's policies governing compliance with the community service requirement.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH 14 extended to 12/31/2021~~

#### **9-I.D. EFFECTIVE DATES**

For families who pay an income-based rent, the Housing Authority must conduct a reexamination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

#### Housing Authority Procedure

- An *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least thirty (30) days in advance. *Anniversary date* is defined as twelve (12) months from the effective date of the family's last annual reexamination or, date of admission to

Public Housing. If less than thirty (30) days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty (30) day notice period.

If the Housing Authority chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Housing Authority, but will always allow for the thirty (30) day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16, Program Administration.

- A *decrease* in the tenant rent that results from an annual reexamination may take effect on the family's anniversary date.

If the Housing Authority chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Housing Authority. *Anniversary date* is defined as twelve (12) months from the effective date of the family's last annual reexamination or, date of admission to Public Housing.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the Housing Authority by the date specified, and this delay prevents the Housing Authority from completing the reexamination as scheduled.

### **Pending Litigation**

If a family is subject to litigation (for example unlawful detainer) at the time of annual reexamination and the Housing Authority is unable to complete the reexamination by the anniversary date, the Housing Authority must submit the following information to the local HUD field office but ONLY by using encrypted email:

1. Housing Authority Certification signed and dated by the Executive Director or designated official on the Housing Authority's letterhead, which states the following:
  - I certify under the penalties of perjury that the attached list of head of household (HOH) names have an overdue annual reexamination due to pending litigations initiated by the Housing Authority or tenant. I agree to submit an updated form HUD-50058 to PIC, in accordance with HUD guidance once the court has issued a final order or family discontinues participation in a PIH rental assistance program, whichever occurs first.
  - I understand that HUD may request copies of the court proceedings filed with the court and agree to furnish such documents with any documents associated with the

pending litigation upon written request of a HUD official.

2. A listing of HOHs in which there is pending litigation, the type of pending litigation pending (i.e. wrongful termination, breach of lease, tenant holding over action, etc.) the date the litigation began and the court-assigned case number.
  - Housing Authority's must download the Earned Income Verification (EIV) Identity Verification/Failed EIV Pre-screening report into Excel (prior to implementing action item #3 below) to create the listing, however, the Housing Authority must delete all tenant social security numbers before sending the file to HUD.
  - Add the following columns to the report and provide the applicable information:
    - Date Litigation Initiated
    - Court Assigned case number
    - Type of Litigation
3. The Housing Authority will successfully submit an action type 3 (interim reexamination) form HUD-50058 to HUD's Public and Indian Housing Center (PIC) in which line 2b, effective date contains a current date; line 2i, projected effective date of next reexamination is equal to a date twelve (12) months from the date listed on line 2b; and any line between 2q – 2u (Housing Authority use only) contains the words "Pending Litigation".

## **PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]**

### **9-II.A. OVERVIEW**

HUD requires that the Housing Authority offer all families the choice of paying income-based rent or flat rent at least annually. The Housing Authority's policies for offering families a choice of rents is located in Chapter 6-Income and Rent Determinations.

If the family chose a flat rent for the previous year, the Housing Authority is required to provide the amount of income-based rent for the subsequent year only the year the Housing Authority conducts an income reexamination or if the family specifically requests it and submits updated income information [24 CFR 960.253(e)(2)].

In addition, for all residents of public housing, whether those residents are paying income-based or flat rents, the Housing Authority must conduct an annual review of the community service requirement compliance.

This part contains the Housing Authority's policies for conducting reexaminations of families who choose to pay flat rents.

### **9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION Frequency of Reexamination**

For families who choose flat rents, the Housing Authority must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income

at least once every three (3) years in accordance with the procedures in 960.253(f) [24 CFR 960.257(a)(2)].

#### Housing Authority Procedure

In conducting full reexaminations for families paying flat rents, the Housing Authority will follow the same policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

#### **9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“FLAT RENT ANNUAL UPDATE”)**

As noted above, full reexaminations are conducted every three (3) years for families paying flat rents. In the years between full reexaminations, regulations require the Housing Authority to conduct an annual reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the Housing Authority does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

#### **Scheduling**

For families who choose flat rents, the Housing Authority must conduct a reexamination of household composition at least annually 24 CFR 960.257(a)(2)].

#### Housing Authority Procedure

In scheduling the annual update, the Housing Authority will follow the Procedure used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B, Scheduling Annual Reexaminations.

#### **In Person Appointments**

- Families are required to participate in an annual update appointment, which must be attended by the head of household, spouse or co-head, and anyone over 18 years of age. If participation in an in-person appointment poses a hardship because of a family member’s disability, the family should contact the Housing Authority to request a reasonable accommodation.
- Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a Housing Authority packet, as well as supporting documentation related to the family composition.
- Any required documents or information that the family is unable to provide at the time of the appointment must be provided within ten (10) calendar days of the appointment. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

#### **Appointments by Mail or Online**

- Families will be notified of an annual reexamination appointment. The notification will contain the date, time, and method of the appointment. In addition, the family will be informed of the information and documentation that are required at time of



the appointment. The family will have ten (10) calendar days to submit the required information to the Housing Authority. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The Housing Authority will accept required documentation by mail, by fax, or in person.

- If the family's submission is incomplete, or the family does not submit the information in the required time frame, the Housing Authority will send a second written notice to the family. The family will have ten (10) calendar days from the date of the second notice to provide the missing information or documentation to the Housing Authority.
- If the Housing Authority designates the annual reexamination process to be done through the Resident Portal, the entire reexamination will be conducted electronically.

### **Conducting Annual Updates**

The terms of the lease require the tenant to furnish such information and certifications regarding family composition as may be necessary for the Housing Authority to make determinations with respect to eligibility, and the appropriateness of dwelling size [24 CFR 966.4(c)(2)].

The information provided by the family must be verified in accordance with the policies in Chapter 7. Verification. Certain types of information that have already been verified by the Housing Authority at the time of admission to the public housing program, typically do not need to be re-verified on an annual basis, unless the family reports a change, or the Housing Authority has reason to believe a change has occurred in information previously reported by the family.

Types of information that typically do not need to be re-verified at reexamination include the following:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13, lease Terminations.

### **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the Procedure in – Chapter, 13 Lease

Terminations, Section IV.B, Conducting Criminal Records Checks.

#### **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 reexamination screening reveals that the tenant or a member of the tenant's 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 the application and/or reexamination forms, the Housing Authority will propose termination of tenancy. The Housing Authority will use the following at each reexamination determination:

1. Ask households whether any member is subject to a lifetime registration requirement under a state sex offender registration program.
2. Use the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.
3. Aggressively pursue termination of tenancy or assistance, as appropriate, for tenant's subject to a state lifetime sex offender registration requirement to the extent currently allowed by law.

#### Housing Authority Procedure

Each household member 18 years of age and over will be required to sign a consent form for a criminal background check as part of the annual reexamination process.

#### **Compliance with Community Service**

At least sixty (60) days prior to lease renewal, the Housing Authority will review and verify the exemption status of all adult family members. For families who include individuals that are not exempt from the community service requirement, the Housing Authority must determine compliance once each twelve (12) months with community service and self-sufficiency requirements in 24 CFR 950, Subpart F [24 CFR 960.257(a)(3)]. See Chapter 11-Community Service for the Housing Authority's policies governing compliance with the community service requirement.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

### **Change in Family or Household Composition**

Changes in family or household composition may make it necessary to consider transferring the family to another public housing unit to comply with occupancy standards or may cause a change in the monthly rental amount. The Housing Authority may use the results of the annual update to require the family to move to an appropriate unit size [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12, Transfer Procedure.

Changes to the family or household composition may affect the family's monthly rent. During the Flat Rent Annual Update, the family may have the option of switching from Flat Rent to Income-Based Rent.

### Housing Authority Procedure

If the family or household composition effects the family's monthly rental obligations, the Housing Authority will conduct a full reexamination and will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

### **Pending Litigation**

If a family is subject to litigation (for example unlawful detainer) at the time of annual reexamination the Housing Authority is unable to complete the reexamination by the anniversary date, the Housing Authority must submit the following information to the local HUD field office but ONLY by using encrypted email:

1. Housing Authority Certification signed and dated by the Executive Director or designated official on the Housing Authority 's letterhead, which states the following:
  - I certify under the penalties of perjury that the attached list of head of household (HOH) names have an overdue annual reexamination due to pending litigations initiated by the Housing Authority or tenant. I agree to submit an updated form HUD-50058 to PIC, in accordance with HUD guidance once the court has issued a final order or family discontinues participation in a PIH rental assistance program, whichever occurs first.
  - I understand that HUD may request copies of the court proceedings filed with the court and agree to furnish such documents with any documents associated with the pending litigation upon written request of a HUD official.
2. A listing of HOHs in which there is pending litigation, the type of pending litigation pending (i.e. wrongful termination, breach of lease, tenant holding over action, etc.) the date the litigation began and the court-assigned case number.
  - Housing Authority's must download the Earned Income Verification (EIV), Identity Verification/Failed EIV Pre-screening report into Excel (prior to implementing action item 3 below) to create the listing, however, the Housing Authority must delete all tenant social security numbers before sending the file to HUD.

- Add the following columns to the report and provide the applicable information:
  - Date Litigation Initiated
  - Court Assigned case number
  - Type of Litigation

3. The Housing Authority will successfully submit an action type 3 (interim reexamination) form HUD-50058 to HUD's Public and Indian Housing Center (PIC) in which line 2b, effective date contains a current date; line 2i, projected effective date of next reexamination is equal to a date twelve (12) months from the date listed on line 2b; and any line between 2q – 2u (Housing Authority use only) contains the words "Pending Litigation".

**PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]**

**9-III.A. OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and Housing Authority policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the Housing Authority must process interim reexaminations to reflect those changes. HUD regulations also permit the Housing Authority to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The Housing Authority must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and Housing Authority policies describing what changes families are required to report, what changes families may choose to report, and how the Housing Authority will process both Housing Authority- and family-initiated interim reexaminations.

The Housing Authority shall have the right to require the resident to attend an interim rent review. Resident may request an interim rent review at any time. Resident shall attend any meetings held to conduct the interim at the time and place specified by the Housing Authority or, if requested by the resident, at an alternative time during normal Housing Authority business hours. Resident will be required to provide to the Housing Authority complete and accurate information as specified by the Housing Authority (reasonable accommodations may be made for individuals requiring in home visits).

The Housing Authority will review the EIV Income report for each New Admission (form HUD-50058 action type 1 within 120 days of the participant's admission date to confirm/validate the income reported by the family during the initial eligibility determination. Any income discrepancies will be resolved with the family within sixty (60) days of the date the EIV Income Report was run and a copy of the EIV income report will be placed in the tenant file.

**9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The Housing Authority must adopt policies describing when and under what conditions the family must report changes in family composition.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12-Transfer Procedure

#### Housing Authority Procedure

All families must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

The Housing Authority will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **Addition of New Family Members Not Requiring Housing Authority Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require Housing Authority approval. However, the family is required to promptly notify the Housing Authority of the addition [24 CFR 966.4(a)(1)(v)].

#### Housing Authority Procedure

The family must inform the Housing Authority of the birth, adoption or court-awarded custody of a child within thirty (30) days.

NOTE: See Chapter 3, Eligibility, Section 3.I.J., Guest, for more information regarding the Guest Procedure. The Guest Procedure and the addition of new family members are mutually exclusive.

#### **Addition of New Family Members Requiring Housing Authority Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request Housing Authority approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The Housing Authority may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which Housing Authority consent will be given or denied. Under such policies, the factors considered by the Housing Authority may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The Housing Authority's obligation to make reasonable accommodation for disabled persons.

#### Housing Authority Procedure

Families must request Housing Authority approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than fourteen (14) consecutive days or a total of thirty (30) cumulative calendar days during any twelve (12) month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Housing Authority prior to the individual moving into the unit.

The Housing Authority will not approve the addition of a new family or household member unless the individual meets the Housing Authority's eligibility criteria (see Chapter 3, Eligibility).

A request to allow adult children to move back into the unit will not be approved unless it is determined that the move is essential for the mental or physical well-being of the tenant **and** it does not disqualify the family for the size of unit it is currently occupying.

If the Housing Authority determines that an individual does not meet the Housing Authority's eligibility criteria as defined in Chapter 3-Eligibility, the Housing Authority will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The Housing Authority will make its determination within ten (10) calendar days of receiving all information required to verify the individual's eligibility.

NOTE: See Chapter 3, Eligibility, Section 3.1.-J., Guest for information regarding the Guest Procedure. The Guest Procedure and the addition of new family members are mutually exclusive.

**Departure of a Family or Household Member**  
Housing Authority Procedure

If a family member ceases to reside in the unit, the family must inform the Housing Authority within thirty (30) days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the Housing Authority within thirty (30) days.

**9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the Housing Authority has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

**Housing Authority-initiated Interim Reexaminations**

Housing Authority-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the Housing Authority.

Housing Authority Procedure

The Housing Authority will conduct interim reexaminations in each of the following instances:

1. For families receiving the Earned Income Disallowance (EID), the Housing Authority will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second twelve (12) month exclusion period (50 percent Housing Authority phase-in period).
2. If the family has reported zero (\$0) income, the Housing Authority will conduct an interim reexamination every three (3) months as long as the family continues to report that they have no income.

3. If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months (e.g. seasonal or cyclic income); the Housing Authority may schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
4. If at the time of the annual reexamination, tenant provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Housing Authority will conduct an interim reexamination.
5. The Housing Authority may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.
6. The Housing Authority will review the EIV Income report for each New Admission (form HUD-50058 action type 1) within ninety (90) days of the participant's admission date to confirm/validate the income reported by the family during the initial eligibility determination. Any income discrepancies will be resolved with the family within thirty (30) days of the date the EIV Income Report was run.

#### **Family-Initiated Interim Reexaminations**

The family may request an interim reexamination of family income or composition because of any changes since the last determination. The Housing Authority must make the interim reexamination within a reasonable time after the family request.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6, Income and Rent Determinations.

#### Housing Authority Procedure

- Families are required to report all increases in earned income, including new employment, within thirty (30) days of the date the change takes effect. The family must notify the Housing Authority of changes in writing. If the family provides oral notice, the Housing Authority may also require the family to submit the changes in writing.
- The family is required to attend the interim reexamination appointment. Based on the type of change reported, the Housing Authority will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) calendar days of receiving a request from the Housing Authority. This time frame may be extended for good cause with Housing Authority approval. The Housing Authority will accept required documentation by mail, by fax, or in person.
- If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the Housing Authority will conduct an interim reexamination (see Section 9-III.D. for effective dates).

- Families may report changes in income or expenses at any time.

#### **9-III.D. PROCESSING THE INTERIM REEXAMINATION Effective Dates**

The Housing Authority must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

##### Housing Authority Procedure

If the family's rent is to *increase*:

- The increase will be effective on the first of the month following a thirty (30) day notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16-Program Administration.

If the family's rent is to *decrease*:

The decrease will be effective on the first day of the month following the verification of the reported change.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs must use the income hierarchy described by PHH Notice 2018-18. HUD will allow PHAs to forgo third party income verification requirements for annual reexaminations, including the use of EIV.~~

~~If a PHA opts to conduct annual recertifications rather than delaying them. PHAs may consider self-certification as the highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented for the written record by PHA staff), through an email or postal mail with a self-certification form by the tenant, or through other electronic communication. Income and family composition examinations and recertifications do not have to be conducted in person.~~

~~PHA that implement this waiver will be responsible for addressing material income discrepancies that may arise later. The period of availability for waiver is extended to June 30, 2021. HUD Issued Extension to Waiver PH 14 extended to 12/31/2021~~

#### **PART IV: RECALCULATING TENANT RENT**



#### **9-IV.A. OVERVIEW**

For those families paying income-based rent, the Housing Authority must recalculate the rent amount based on the income information received during the interim reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6-Income and Rent Determinations, this part identifies policies that affect these calculations during an interim reexamination.

**9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]** The tenant rent calculations must reflect any changes in the Housing Authority's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16-Program Administration discusses how utility allowance schedules are established.

##### Housing Authority Procedure

Unless the Housing Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

#### **9-IV.C. NOTIFICATION OF NEW TENANT RENT**

The lease requires the Housing Authority to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the Housing Authority re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the Housing Authority's schedule of Utility Allowances for families in the Housing Authority's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the Housing Authority must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the Housing Authority determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the Housing Authority's grievance procedure [24 CFR 966.4(c)(4)].

##### Housing Authority Procedure

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

#### **9-IV.D. DISCREPANCIES**

During an annual or interim reexamination, the Housing Authority may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the Housing Authority may discover errors made by the Housing Authority. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15, Program Integrity.

##### **Over-Income Families [24 CFR 960.261]**

Subject to certain restrictions, HUD authorizes Housing Authorities to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the Housing Authority may not evict or terminate the tenancy of a family solely because the family is over income if:

- a. The family has a valid contract of participation in the Family Self-Sufficiency (FSS) program; or
- b. The family is currently receiving the earned income disallowance

The over-income requirement states that after a family's income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two (2) consecutive years. The Housing Authority must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is higher of the applicable market rent (FMR) or the amount from the operating and capital fund.

#### Housing Authority Procedure

The Housing Authority will evict or terminate the tenancies of families solely because they are over income.

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the Housing Authority will document the family file and begin tracking the family's over-income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the Housing Authority will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to the Housing Authority over-income policies.

If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the Housing Authority will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The Housing Authority will notify the family in writing of their new rent amount. The new rent amount will be effective 30 days after the Housing Authority written notice to the family.

If, at any time, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with Housing Authority. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The Housing Authority will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period.

The Housing Authority will track over-income families.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative~~

~~requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH-2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs must use the income hierarchy described by PHH Notice 2018-18. HUD will allow PHAs to terminate rental assistance or charge an alternative rent to families whose income exceeds the program maximum over two consecutive reexamination cycles through June 30, 2021. HUD Issued Extension to Waiver PH-14 extended to 12/31/2021.~~

~~Through this waiver PHAs would be allowed to permit over income families to remain in their units instead of being terminated and will be charged the applicable FMR as the family's monthly rental amount.~~

**Chapter 10**  
**PET OWNERSHIP**

[24 CFR Part 5, Subpart C; 24 CFR 960, Subpart G]

**INTRODUCTION**

This chapter explains the Housing Authority's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the Housing Authority to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the Housing Authority.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

**PART I: ASSISTANCE ANIMALS**

[Section 504 of the Rehabilitation Act of 1973; Fair Housing Act (42 U.S.C. 3601-3619);  
24 CFR 5.303]

**10-I.A. OVERVIEW**

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals often referred to as "service animals," "assistive animals," "support animals," or "therapy animals" perform many disability- related functions, including but not limited to the following:

1. Guiding individuals who are blind or have low vision;
2. Alerting individuals who are deaf or hearing impaired;
3. Providing minimal protection or rescue assistance;
4. Pulling a wheelchair;
5. Fetching items;
6. Alerting persons to impending seizures; or

7. Providing emotional support to persons with disabilities who have a disability-related need for such support.

**Exclusion for Assistance Animals [24 CFR 5.303; 24 CFR 960.705]**

Animals that are necessary as a reasonable accommodation to assist, support, or provide service to persons with disabilities are not subject to the Housing Authority's pet policies described in Parts II through IV of this chapter. This exclusion applies to animals that reside in projects for the elderly or persons with disabilities, as well as to animals that visit these projects. Nothing in the HUD Regulations:

1. Limits or impairs the rights of persons with disabilities;
2. Authorizes the Housing Authority to limit or impair the rights of persons with disabilities; or
3. Affects any authority the Housing Authority may have to regulate animals that assist, support, or provide service to persons with disabilities, under federal, state, or local law.

Housing Authority Procedure

For an animal to be excluded from the pet Procedure and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the Housing Authority approve a reasonable accommodation in accordance with the policies contained in Chapter 2, Fair Housing and Equal Opportunity.

Assistance animals (service animals) are legally defined and recognized (American with Disabilities Act, 1990) by Federal laws, which protect the rights of individuals with disabilities to be accompanied by their service animals in public places. A service animal is not a "pet" – it is any animal that has been trained to assist a person with a disability. A service animal is not subject to a "No Pet" Procedure, a pet deposit, or additional cleaning fees and service animals are ONLY animals that can accompany their handler/owner anywhere without restriction.

Federal laws do not extend the same recognition to Therapy animals, Companion animals, or Emotional Support animals.

**10-I.B. APPROVAL OF ASSISTANCE ANIMALS**

The Housing Authority has the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 24 CFR 960.705(b)(3)]. Assistance animals may be allowed on all public housing facilities with no restriction other than those imposed on all tenants to maintain the units and associated facilities in a decent, safe and sanitary manner and to refrain from allowing the assistance animal from disturbing the quiet and peaceful enjoyment of others.

However, a person with a disability is not *automatically entitled* to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and need for the assistance animal.

A Housing Authority may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals

that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability.

A Housing Authority's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act *unless*:

1. There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation.
2. There is reliable objective evidence that the animal would cause substantial physical damage to the property of others.

**10-I.C. CARE AND HANDLING**

HUD regulations do not affect any authority a Housing Authority may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

Housing Authority Procedure

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the Housing Authority will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the Housing Authority determines that no such reasonable accommodation can be made, the Housing Authority may withdraw the approval of a particular assistance animal.

**PART II: PET POLICIES FOR ALL DEVELOPMENTS**  
[24 CFR Part 5, Subpart C; 24 CFR 960, Subpart G]

**10-II.A. OVERVIEW**

The purpose of a pet Procedure is to establish clear guidelines for ownership of a pet and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of a pet. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

**10-II.B. MANAGEMENT APPROVAL OF PETS**

A resident of a dwelling unit in public housing may own one common household pet or have one common household pet present in the dwelling unit of such resident, subject to the reasonable requirements of the Housing Authority. [24 CFR 960.707]

### **Registration of Pets**

Housing Authority will require the family to register the pet with the Housing Authority [24 CFR 960.707(b)(5)].

#### Housing Authority Procedure

- Pet must be registered with the Housing Authority before they are brought onto the premises.
- Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all vaccinations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.
- Pet will not be approved to reside in a unit until completion of the registration requirements.

### **Housing Authority Refusal to Register Pet**

#### Housing Authority Procedure

If the Housing Authority refuses to register a pet, a written notification will be sent to the pet owner within ten (10) calendar days of the Housing Authority's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the Housing Authority's grievance procedures. The Housing Authority will refuse to register a pet if:

- The pet is not *a common household pet* as defined in Section 10-II.C., Standards for Pets.
- Keeping the pet would violate any pet restrictions listed in this Procedure.
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually.
- The applicant has previously been charged with animal cruelty under state or local law or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.
- The Housing Authority reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

### **Pet Agreement**

#### Housing Authority Procedure

Residents who have been approved to have a pet must enter into a pet agreement with the Housing Authority, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the Housing Authority's pet Procedure and applicable house rules, that he or she has read the

policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the Housing Authority's pet Procedure and applicable house rules may result in the withdrawal of Housing Authority approval of the pet or termination of tenancy.

**10-II.C. STANDARDS FOR PET [24 CFR 5.318; 960.707(b), 5.306(2)]**

Housing Authority may establish reasonable requirements related to pet ownership including, but not limited to:

1. Limitations on the number of animals in a unit, based on unit size.
2. Prohibitions on types of animals that the Housing Authority classifies as dangerous, provided that such classifications are consistent with applicable state and local law.
3. Prohibitions on individual animals, based on certain factors, including the size and weight of the animal.
4. Requiring pet owners to have their pets spayed or neutered.

Housing Authority may not require pet owners to have any pet's vocal cords removed.

**Definition of "Common Household Pet"**

The pet rules established by a Housing Authority may contain a reasonable definition of a "common household pet" [24 CFR 5.318].

Housing Authority Procedure

*Common household pet* means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home as pets rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding
- Turkeys
- Chickens and/or any other fowl

**Pet Restrictions**

Housing Authority Procedure

The following animals are **not permitted**:

- Any animal whose adult weight will exceed twenty-five (25) pounds;



- Any dog breed determined to be reserved/aggressive or territorial by Dog Breed info.com or any other credible source. No vicious, aggressive or intimidating animals are to be kept.
- No other type of pet is allowed under any circumstances including, but not limited to, illegal, exotic or endangered animals, snakes, alligators, spiders, lizards;
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations; or
- Any animal not permitted under state or local law or code.

**Number of Pets**

Housing Authority Procedure

- Residents may own a maximum of two (2) pets.
- In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank not exceeding ten (10) gallons. Such a tank or aquarium will be counted as one (1) pet.

**Other Requirements**

Housing Authority Procedure

- Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within thirty (30) days of the pet reaching six (6) months of age.

Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

- Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

**10-II.D. PET RULES**

Pet owners must maintain pets responsibly, in accordance with Housing Authority policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

**Pet Area Restrictions**

Housing Authority Procedure

- Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.
- Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.
- Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building with the exception of service animals.

**Cleanliness**

Housing Authority Procedure

- The pet owner shall be responsible for the removal of waste by placing it in a sealed plastic bag and disposing of it in the garbage can.
- The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.
- Litter box requirements:
  - Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
  - Litter shall not be disposed of by being flushed down the toilet.
  - Litter boxes shall be kept inside the tenant’s dwelling unit.

**Alterations to Unit**

Housing Authority Procedure

- Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.
- Installation of pet doors is prohibited.

**Noise**

Housing Authority Procedure

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

**Pet Care**

Housing Authority Procedure

- Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.
- Each pet owner shall be responsible for appropriately training and caring for pet to ensure that the pet is not a nuisance or danger to other tenants and does not damage Housing Authority property.
- No animals may be tethered or chained inside or outside the dwelling unit at any time.

**Responsible Parties**

Housing Authority Procedure

- The pet owner will be required to designate two (2) responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

- Residents are not allowed to watch anyone else's pet unless, without prior notification to the Housing Authority and the resident must sign a statement that they agree to abide by all of the pet rules.
- Resident's guests are not allowed to bring their pets with them to visit.
  - *Except for service animals.*

**Pets Temporarily on the Premises**  
Housing Authority Procedure

- Pets that are not owned by a tenant are not allowed on the premises. Tenants are prohibited from feeding or harboring stray animals. Guests are not allowed to bring their pets with them to visit.
  - *Except for service animals.*

**Pet Rule Violations**  
Housing Authority Procedure

- All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.
- If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, a written lease violation notice will be served. The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:
  - The pet owner has ten (10) calendar days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.
  - The pet owner is entitled to be accompanied by another person of his or her choice at the meeting.
  - The pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

**Notice for Pet Removal**  
Housing Authority Procedure

If the pet owner and the Housing Authority are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the Housing Authority, the Housing Authority may serve notice to remove the pet. The notice will contain:

- A brief statement of the factual basis for the Housing Authority's determination of the pet rule that has been violated.
- The requirement that the resident pet owner must remove the pet within three (3)

business days of the notice. Any dog breed determined to be reserved/aggressive or territorial by Dog Breed info.com or any other credible source need to be removed within 24 hours due to safety concerns.

- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

### **Pet Removal**

#### Housing Authority Procedure

If the death or incapacitation of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

- If the responsible party is unwilling or unable to care for the pet, or if the Housing Authority after reasonable efforts cannot contact the responsible party, the Housing Authority may contact the appropriate state or local agency and request the removal of the pet. Any costs incurred by the Housing Authority will be billed to the family.

### **Termination of Tenancy**

#### Housing Authority Procedure

The Housing Authority may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified; and/or
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

### **Emergencies**

#### Housing Authority Procedure

The Housing Authority will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

- If it is necessary for the Housing Authority to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.
- If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

## **PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS**

### **10-III.A. OVERVIEW**

This part describes the Housing Authority's policies for pet deposits and fees in elderly/disabled developments, such as McDowell Manor. Policies governing deposits and fees in family/general occupancy developments are described in Part IV.

## 10-III.B. PET DEPOSITS

### **Payment of Deposit [24 CFR 5.318(d)(C); 24 CFR 960.707(d)]**

The Housing Authority may require tenants who own or keep pets in their units to pay a refundable pet deposit. The pet deposit is in addition to any other financial obligation generally imposed on tenants of the project. The pet deposit is not part of the rent payable by the resident.

A Housing Authority that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The Housing Authority must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements.

The maximum amount of pet deposit that may be charged by a Housing Authority on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the Housing Authority may require. The Housing Authority may permit gradual accumulation of the pet deposit by the pet owner.

#### Housing Authority Procedure

Elderly or disabled pet owners are required to pay a pet deposit of \$150 in addition to any other required deposits.

### **Refund of Deposit [24 CFR 5.318(d)(1)]**

The Housing Authority may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The Housing Authority must refund the unused portion of the pet deposit to the tenant within twenty-one (21) days after the tenant moves from the project or no longer owns or keeps a pet in the unit.

#### Housing Authority Procedure

The Housing Authority will refund the pet deposit to the tenant, less the costs of any damages caused by the pet to the dwelling unit, within twenty- one (21) business days of move-out or removal of the pet from the unit.

The tenant will be billed for any amount that exceeds the pet deposit.

The Housing Authority will provide the tenant with a written list of any charges against the pet deposit within twenty-one (21) business days of the move-out or removal of the pet from the unit. If the tenant disagrees with the amount charged to the pet deposit, the Housing Authority will provide an opportunity to discuss the charges.

## 10-III.C. OTHER CHARGES

### **Pet-Related Damages During Occupancy**

#### Housing Authority Procedure

All reasonable expenses incurred by the Housing Authority as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the tenant, including:

- The cost of repairs and replacements of the tenant's dwelling unit.
- Furnigation of the dwelling unit.
- Repairs to common areas of the public housing development.
- The expense of flea elimination shall also be the responsibility of the resident. If the tenant is in occupancy when such costs occur, the resident shall be billed for such costs.

Pet deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the tenant.

**Pet Waste Removal Charge**

Charges for violation of Housing Authority pet rules may be treated like charges for other violations of the lease and Housing Authority tenancy rules.

Housing Authority Procedure

A separate pet waste removal charge of \$25 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this Procedure.

The lease shall provide that the charges assessed (other than tenant rent) shall not be due and collectible until fourteen (14) calendar days after the Housing Authority gives written notice of the charges.

Charges for pet waste removal are not part of rent payable by the resident.

**PART IV: PET DEPOSITS AND FEES IN FAMILY/GENERAL OCCUPANCY DEVELOPMENTS**

**10-IV.A. OVERVIEW**

This part describes the Housing Authority's policies for pet deposits and fees for those who reside in family/general occupancy developments.

**10-IV.B. PET DEPOSITS**

**Payment of Deposit [24 CFR 5.318(d); 24 CFR 960.707(d)]**

The Housing Authority may require tenants who own or keep pets in their units to pay a refundable pet deposit. The pet deposit is in addition to any other financial obligation generally imposed on tenants of the project. The pet deposit is not part of the rent payable by the resident.

A Housing Authority that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The Housing Authority must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements.

The maximum amount of pet deposit that may be charged by a Housing Authority on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the Housing Authority may require. The Housing Authority may permit gradual

accumulation of the pet deposit by the pet owner.

Housing Authority Procedure

Pet owners are required to pay a pet deposit of \$300 in addition to any other required deposits.

**Refund of Deposit [24 CFR 5.318(d)(1)]**

The Housing Authority may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The Housing Authority must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

Housing Authority Procedure

The Housing Authority will refund the pet deposit to the tenant, less the costs of any damages caused by the pet to the dwelling unit, within twenty-one (21) days of move-out or removal of the pet from the unit.

The tenant will be billed for any amount that exceeds the pet deposit.

The Housing Authority will provide the tenant with a written list of any charges against the pet deposit within twenty-one (21) business days of the move-out. If the tenant disagrees with the amount charged to the pet deposit, the Housing Authority will provide a meeting to discuss the charges.

**10-IV.C. OTHER CHARGES**

**Pet-Related Damages During Occupancy**

Housing Authority Procedure

All reasonable expenses incurred by the Housing Authority as a result of damages directly attributable to the presence of the pet in the development will be the responsibility of the tenant, including:

- The cost of repairs and replacements of the tenant's dwelling unit.
- Fumigation of the dwelling unit.
- Repairs to common areas of the public housing development.
- The expense of flea elimination shall also be the responsibility of the resident. If the tenant is in occupancy when such costs occur, the resident shall be billed for such costs.

Pet deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the tenant.

**Pet Waste Removal Charge**

Charges for violation of Housing Authority pet rules may be treated like charges for other violations of the lease and Housing Authority tenancy rules.

Housing Authority Procedure

A separate pet waste removal charge of \$25 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this Procedure.

Such charges will be due and payable fourteen (14) calendar days after billing. Charges for pet waste removal are not part of rent payable by the resident.



**Chapter 11**  
**COMMUNITY SERVICE & SELF-SUFFICIENCY REQUIREMENT (CSSR) [24 CFR**  
**960.600-609; PIH Notice 2009-48 (HA)]**

**INTRODUCTION**

This chapter explains HUD regulations requiring Housing Authorities to implement a community service program for all non-exempt adults living in public housing.

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

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: Housing Authority Implementation of Community Service. This part provides Housing Authority Procedure regarding Housing Authority implementation and program design.

**PART I: COMMUNITY SERVICE & SELF-SUFFICIENCY REQUIREMENT**

**11-I.A. OVERVIEW**

HUD regulations pertaining to the Community Service and Self-Sufficiency Requirement (CSSR) are contained in 24 CFR 960 Subpart F (960.600 through 960.609). Housing Authorities and residents must comply with the CSSR, effective with Housing Authority fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the Housing Authority Plan must contain a statement of how the Housing Authority will comply with the community service requirement, including any cooperative agreement that the Housing Authority has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the Housing Authority must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

**11-I.B. REQUIREMENTS [24 CFR 960.603(a)]**

Each public housing adult resident, who is not exempt, must:

- Contribute eight (8) hours per month of community service (not including Political activities); or
- Participate in an economic self-sufficiency program (as defined in the regulations) for eight (8) hours per month; or
- Perform eight (8) hours per month of combined activities (community service and economic self-sufficiency programs).

- The required community service or self-sufficiency activity may be completed eight (8) hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as ninety-six (96) hours is completed by each annual certification of compliance [Notice PIH 2015-12].

**Definitions**

**Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]**

The Housing Authority shall provide an exemption from the community service requirement for any adult resident who meets the following HUD exemption criteria:

1. Is 62 year of age or older;
2. Is blind or disabled individual as defined under Section 216(i)(l) or 1614 of the Social Security Act (42 U.S.C. Section 1382c), and who certify that:
  - a. Because of this disability he or she is unable to comply with the service provisions of this subpart; or
  - b. Is a primary caretaker of such an individual
3. Is engaged in work activities (See eligible work activities section)

Housing Authority Procedure

The Housing Authority will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

4. Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program
  - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
5. Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

**Community Service [24 CFR 960.601(b), Notice PIH 2015-12]**

*Community service* is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self- sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions, such as schools, Head Start Programs, before-

or after-school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);

- Nonprofit organizations serving Housing Authority residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, or beautification programs;
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, or Meals on Wheels;
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts;
- Housing Authority housing to improve grounds or providing gardens (so long as such work does not alter the Housing Authority's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board, outreach and assistance with Housing Authority-run self-sufficiency activities including supporting computer learning centers; and
- Care for the children of other residents so parents may volunteer.

#### Housing Authority Procedure

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work may be considered eligible community service activities.

#### **Economic Self-Sufficiency Program [24 CFR 5.603(b) Notice PIH 2015-12**

For purposes of satisfying the community service requirement, an economic self-sufficiency program is defined by HUD as: any program designed to encourage, assist, train, or facilitate economic independence of HUD-assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness programs or job training
- Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education including higher education (junior college or college), GED classes or reading, financial, and/or computer literacy classes

- Apprenticeships (formal or informal)
- English as a second language or English proficiency classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

**Work Activities [42 U.S.C. 607(d)]**

A resident must be “engaged in work activities” in order to be exempt from the Community Service and Self-Sufficiency Requirement (CSSR). The person must be participating in an activity that meets one of the following definitions of “work activity” contained in Section 407(d) of the Social Security Act (42 U.S.C. Section 607(d)):

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
  - On-the-job training;
  - Job search and job readiness assistance;
  - Community service programs;
- Vocational educational training (not to exceed twelve (12) months with respect to any individual);
- Job skills training directly related to employment;
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate;

Housing Authority Procedure

The Housing Authority will consider thirty (30) hours per week as the minimum number of hours needed to qualify for a work activity exemption.

Able to meet requirements under a State program funded under part A of Title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or under any other welfare program of the State in which the Housing Authority is located including a State- administered Welfare-to-Work program; or

A member of a family receiving assistance, benefits, or services under a State program funded under part A of Title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the State in which the Housing Authority is located, including a State-administered Welfare-to-Work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

**Notification Requirements [24 CFR 960.605(c)(2)] [Notice PIH 2015-12, Notice PIH 2016-06]**

The Housing Authority must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for Housing Authority verification of exempt status. The Housing Authority must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that, if they are not exempt, failure to comply with the Community Service Requirement will result in non-renewal of the lease. The family must also sign a certification at annual reexamination such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

Housing Authority Procedure

The Housing Authority will provide the family with a copy of the Housing Authority's Community Service Policy at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the Housing Authority will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals, the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

**11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]**

The Housing Authority must review the exempt and non-exempt status of each family member and verify family compliance with the CSSR annually at least thirty (30) days before the end of the twelve (12) month lease term. The Procedure for documentation and verification of compliance with service requirements may be found in Section 11-I.D., Documentation and Verification of this chapter.

Housing Authority Procedure

Determination of compliance with the community service requirements will coincide with the lease term.

**Annual Determination  
Determination of Exemption Status**

An exempt individual is excused from the community service requirement [24 CFR

960.603(a)].

#### Housing Authority Procedure

At least sixty (60) days prior to lease renewal, the Housing Authority will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the Housing Authority has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the Housing Authority will notify the family of its determination in accordance with the Procedure in Section 11-I.B., Notification Requirements of this chapter.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH-14 extended to 12/31/2021.~~

#### **Determination of Compliance**

The Housing Authority must review resident family compliance with service requirements annually at least thirty (30) days before the end of the twelve (12) month lease term [24 CFR 960.605(c)(3)]. As part of this review, the Housing Authority must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

#### Housing Authority Procedure

Approximately sixty (60) days prior to the end of the lease term, the Housing Authority will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have ten (10) calendar days to submit the Housing Authority required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or Housing Authority approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11.I.E. (Noncompliance) of this chapter.

#### **Change in Status Between Annual Determinations**

##### Housing Authority Procedure

Changing from Exempt to Non-Exempt Status:

- If an exempt individual becomes non-exempt during the twelve (12) month lease term, it is the family's responsibility to report this change to the Housing Authority within thirty (30) days.
- Within ten (10) calendar days of a family reporting such a change, or the Housing Authority determining such a change is necessary, the Housing Authority will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.
- The effective date of the community service requirement will be the first of the month following thirty (30) day notice.

**Determination of Initial Compliance**

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

- Changing from Non-Exempt to Exempt Status:
  - If a non-exempt person becomes exempt during the twelve (12) month lease term, it is the family's responsibility to report this change to the Housing Authority within thirty (30) days. Any claim of exemption will be verified by the Housing Authority in accordance with the Procedure at 11-I.D., Documentation and Verification of Exemption Status.
  - Within ten (10) calendar days of a family reporting such a change, or the Housing Authority determining such a change is necessary, the Housing Authority will provide the family written notice that the family member is no longer subject to the community service requirement, if the Housing Authority is able to verify the exemption.
  - The exemption will be effective immediately.

**11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4) Notice PIH 2016-08]**

The Housing Authority must retain reasonable documentation of service requirement performance or exemption in participant files. At each regularly scheduled reexamination, each non-exempt family member must present a signed standardized form developed by the Housing Authority of community service and self-sufficiency activities performed over the last twelve (12) months.

**Documentation and Verification of Exemption Status**

Housing Authority Procedure

All family members who claim they are exempt from the community service requirement will be required to sign the Housing Authority's Community Service Exemption Certification form. The Housing Authority may provide a completed copy to the family and will keep a

copy in the tenant file.

The Housing Authority will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7-Verification.

The Housing Authority makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the Housing Authority's determination, a dispute can be filed through the Housing Authority's grievance procedures (see Chapter 14-Grievances and Appeals).

#### **Documentation and Verification of Compliance**

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the Housing Authority of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the Housing Authority, a family member who is required to fulfill a service requirement must provide certification to the Housing Authority, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

#### Housing Authority Procedure

If anyone in the family is subject to the community service requirement, the Housing Authority will provide the family with the appropriate documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the Housing Authority, upon request by the Housing Authority.

If the Housing Authority has reasonable cause to believe that the certification provided by the family is false or fraudulent, the Housing Authority has the right to require third-party verification.

~~Pursuant to PIH Notice 2020-05 issued on April 10, 2020, PIH Notice 2020-13 issued on July 2, 2020, and subsequently PIH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing 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 Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the~~



~~requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH 14 extended to 12/31/2021~~

### **Nondiscrimination and Equal Opportunity Compliance**

In administering community service requirements, the Housing Authority must comply with nondiscrimination and equal opportunity requirements listed at §5.105(a) of this file [24 CFR 960.605(c)(5)].

#### **11-I.E. NONCOMPLIANCE Initial Noncompliance**

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for non-renewal of the lease at the end of the twelve (12) month lease term, but not for termination of tenancy during the course of the twelve (12) month lease term [24 CFR 960.603(b)].

The Housing Authority may not evict a family due to CSSR noncompliance. However, if the Housing Authority finds a tenant is noncompliant with CSSR, the Housing Authority must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the Housing Authority will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the Housing Authority or the family provides written assurance that is satisfactory to the Housing Authority explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the Housing Authority's determination, in accordance with the Housing Authority's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the Housing Authority's nonrenewal of the lease because of the Housing Authority's determination.

#### Housing Authority Procedure

The notice of initial noncompliance may be sent at least forty-five (45) days prior to the end of the lease term.

The family will have ten (10) calendar days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the twelve (12) month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Housing Authority will agree to continue occupancy of the family. Documentation must consist of a certification signed by the head of household as well as

evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required ten (10) calendar day timeframe, the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13-Lease Terminations.

**Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]**

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for nonrenewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

Housing Authority Procedure

Notices of continued noncompliance will be sent at least thirty (30) days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Chapter 13-Lease Terminations.

The family will have ten (10) calendar days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Housing Authority will agree to continued occupancy of the family.

Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required ten (10) calendar day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

**PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

**11-II.A. OVERVIEW**

Each Housing Authority must develop a Procedure for administration of the community service and economic self-sufficiency requirements for public housing. It is in the Housing Authority's best interest to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

### **Implementation of Community Service**

The Housing Authority may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by Housing Authority employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

### Housing Authority Procedure

If a disabled resident certifies that s/he is able to perform community service, the Housing Authority will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

## **EXHIBIT 11-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(I) and Section 1614(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE**

### **Social Security Act:**

**216(i)(1):** Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve (12) months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

### **Section 1614** (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who:

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central

visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

## **Chapter 12 TRANSFER PROCEDURE**

### **INTRODUCTION**

This chapter explains the Housing Authority's transfer Procedure, based on HUD regulations, HUD guidance, and Housing Authority Procedure decisions.

The Housing Authority may require the tenant to move from the unit under certain circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as an accommodation. The Housing Authority must have specific policies in place to deal with acceptable transfer requests.

This chapter describes HUD regulations and Housing Authority policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: Housing Authority Required Transfers. This part describes types of transfers that may be required by the Housing Authority, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer Procedure, examples of good cause, deconcentration, transferring to another development and reexamination.

### **PART I: EMERGENCY TRANSFERS**

#### **12-I.A. OVERVIEW**

HUD categorizes certain actions as emergency transfers. The emergency transfer differs from a typical transfer in that it requires immediate action by the Housing Authority.

In the case of a genuine emergency, it may be unlikely that the Housing Authority will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the Housing Authority should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e. return to the unit or transfer to another unit, is reached.

#### **12-I.B. EMERGENCY TRANSFERS**

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the Housing Authority must offer standard alternative accommodations, if available, where necessary repairs cannot be

made within a reasonable time [24 CFR 966.4(h)(3)].

The Housing Authority also allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit.

#### Housing Authority Procedure

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within twenty-four (24) hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; sewage problems and serious water leaks.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in Chapter 19 of this plan, or by any proof accepted by the Housing Authority.
  - A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in chapter 19 of this plan. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383), although, the Housing Authority may waive this requirement in order to expedite the transfer process.

The Housing Authority will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The PHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The Housing Authority cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Housing Authority will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault or stalking to another unit subject to availability and safety of a unit. If the authority has no safe and/or available units for which a tenant who needs an emergency is eligible, the authority will assist the tenant in identifying other housing options and providers who may have safe and/or available units to which the tenant can move.

The Housing Authority has adopted an emergency transfer plan, outlined in Chapter 19 of this plan.

#### **12-I.C. EMERGENCY TRANSFER PROCEDURES**

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the Housing Authority will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the Housing Authority will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, the Housing Authority will follow procedures outlined in Chapter 19.

## **PART II: HOUSING AUTHORITY REQUIRED TRANSFERS**

### **12-II.A. OVERVIEW**

The Housing Authority may require that a resident transfer to another unit under certain circumstances. For example, the Housing Authority may require a resident to transfer to make an accessible unit available to a disabled family. The Housing Authority may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a Housing Authority may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the Housing Authority is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

If the household transfers to another dwelling unit, the lease shall terminate and a new written lease agreement shall be executed for the new dwelling unit. By transferring resident to another dwelling unit, however, the Housing Authority shall not waive its right to terminate the lease for that new unit or to evict the household from that new unit based upon conduct that occurred before the transfer (when resident resided at the previous residence to which the lease refers).

### **12-II.B. TYPES OF HOUSING AUTHORITY REQUIRED TRANSFERS**

#### Housing Authority Procedure

The types of transfers that may be required by the Housing Authority, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the Housing Authority are mandatory for the tenant.

#### **Transfers to Make an Accessible Unit Available**

When a family is initially given an accessible unit, but does not require the accessible features, the Housing Authority may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

#### Housing Authority Procedure

When a non-accessible unit becomes available, the Housing Authority will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The Housing Authority may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Families required to transfer to make an accessible unit available will have three (3) calendar days in which to turn in the keys to the previous unit. Tenants failing to turn in the keys in the required time frame will be served a notice of termination. Tenant will be responsible for all charges (i.e. damages, rent for both units, etc.).

### **Occupancy Standards Transfers**

The Housing Authority may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to Housing Authority Procedure [24 CFR 960.257(a)(4)]. On some occasions, the Housing Authority may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

#### Housing Authority Procedure

The Housing Authority will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied. For purposes of the transfer Procedure, overcrowded and over-housed are defined as follows:

*Overcrowded:* The number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Chapter 5-Occupancy Standards and Unit Offers, Section 5-I.B, Determining Unit Size.

*Over-housed:* The family no longer qualifies for the bedroom size in which they are living based on the Housing Authority's occupancy standards as described in Chapter 5-Occupancy Standards and Unit Offers, Section 5-I.B, Determining Unit Size.

The Housing Authority may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the Housing Authority's occupancy standards, when the Housing Authority determines there is a need for the transfer.

The Housing Authority may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the Housing Authority that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Chapter 5-Occupancy Standards and Unit Offers, Chapter 5-I.C, Exception to Occupancy Standards will only be required to transfer if it is necessary to comply with the approved exception.

Families required to transfer for occupancy standards will have three (3) calendar days in which to turn in the keys to the previous unit. Tenants failing to turn in the keys in the required time frame will be served a notice of termination. Tenant will be responsible for all charges (i.e. damages, rent for both units, etc.).

### **Demolition, Disposition, Revitalizations, or Rehabilitation Transfers**

These transfers permit the Housing Authority to demolish, sell or do major capital or rehabilitation work at a building site.

#### Housing Authority Procedure

The Housing Authority will relocate a family when the unit or site in which the family lives



is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The Housing Authority's relocation plan may require transferring affected families to other available public housing units at any public housing site.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list and receive priority.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

**12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

A Housing Authority required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action on the transfer until the conclusion of the grievance process.

**PART III: TRANSFERS REQUESTED BY TENANTS**

**12-III.A. OVERVIEW**

HUD provides the Housing Authority with discretion to consider transfer requests from tenants. The only requests that the Housing Authority is required to consider are requests for reasonable accommodation and emergency transfers for VAWA. All other transfer requests are at the discretion of the Housing Authority. To avoid administrative costs and burdens, this Procedure limits the types of requests that will be considered by the Housing Authority.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

**12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS**

Housing Authority Procedure

Transfers requested by the tenant are considered optional for the tenant.

The types of requests for transfers that the Housing Authority will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the Housing Authority's occupancy standards, and transfers to a location closer to employment. The tenant must provide a request for transfer in writing that includes third-party verification, which verifies the reason for the request. No other transfer requests will be considered by the Housing Authority.

The Housing Authority will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.
- When there has been a verified threat of physical harm or criminal activity. Such

circumstances may, at the Housing Authority's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

The Housing Authority will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meet the Housing Authority's definition of overcrowded, as long as the family meets the Housing Authority's occupancy standards for the requested size unit.
- When the head of household or spouse is employed twenty-five (25) miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate.

#### **12-III.C. ELIGIBILITY FOR TRANSFER**

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the Housing Authority may establish other standards for considering a transfer request.

##### Housing Authority Procedure

Except where reasonable accommodation is being requested, the Housing Authority will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff.
- Owe no back rent or other charges, or have a pattern of late payment.
- Have no housekeeping lease violations or history of damaging property.
- Can get utilities turned on in the name of the head of household.

Exceptions to the good record requirement may be made when it is to the Housing Authority's advantage to make the transfer.

If a family requested to be placed on the transfer list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

#### **12-III.D. SECURITY DEPOSITS**

##### Housing Authority Procedure

When a family transfers from one unit to another, the Housing Authority will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others

charges due for the “old” unit and if applicable any increases in the security deposit for the “new” unit.

#### **12-III.E. COST OF TRANSFER**

##### Housing Authority Procedure

The resident will bear all of the costs of transfer requests. However, in cases of documented financial hardship, the Housing Authority will consider assuming the transfer costs when the transfer is done as a reasonable accommodation.

#### **12-III.F. HANDLING OF REQUESTS**

##### Housing Authority Procedure

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In the case of a reasonable accommodation transfer, the Housing Authority will require the resident to make the request in writing using a reasonable accommodation request form.

However, the Housing Authority may consider the transfer request any time the resident indicates that a reasonable accommodation is needed whether or not a formal written request is submitted.

The Housing Authority will respond by approving the transfer and placing the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the “good record” requirements under Section 12-III.C., of this chapter, the Asset Manager will address the problem and until resolved, the request for transfer will be denied.

The Housing Authority will respond within ten (10) calendar days of the submission of the family’s request. If the Housing Authority denies the request for transfer, the family will be informed of its grievance rights.

### **PART IV: TRANSFER PROCESSING**

#### **12-IV.A. OVERVIEW**

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

#### **12-IV.B. TRANSFER LIST**

##### Housing Authority Procedure

The Housing Authority will maintain a site-based list to ensure that transfers are processed in the correct order and that procedures are uniform.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case-by-case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Emergency transfers or transfers to make an accessible unit available for a family or a family member with a physical disability will take precedent over the transfers listed in Category 1 and Category 2 below. Other than Category 1 Transfers, all other transfers will take place at a rate of approximately one (1) after every ten (10) new admissions from the waiting list.

Emergency Transfers are for requests submitted for VAWA or maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within twenty-four (24) hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; sewage problems and serious water leaks.

Category 1 Transfers

1. Verified medical condition
2. Threat of harm or criminal activity
3. Reasonable accommodation
4. Demolition, renovation, etc.

Category 2 Transfers

1. Occupancy Standards
2. Other Housing Authority required transfers
3. Other tenant requested transfers

Within each category, transfers will be processed in order of the date the family was placed on the transfer list, starting with the earliest date.

Category 1 Transfers include mandatory transfers to remove residents who are witnesses to crimes and may face reprisals; provide housing options to residents who are victims of hate crimes or extreme harassment; alleviate verified medical problems of a serious (but not life-threatening) nature; or permit modernization or demolition of units.

These transfers shall take priority over new admissions.

Category 2 Transfers correct serious occupancy standards problems. Transfers will be considered Category 2 transfers only if the family size is so small that that includes fewer persons than the number of bedrooms, or so large that the household members over the age of 6 would equal more than two persons per bedroom.

**12-IV.C. TRANSFER OFFER PROCEDURE**

Housing Authority Procedure

Residents will receive one offer of a transfer.

When the transfer is required by the Housing Authority, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six (6) months to reapply for another transfer.

**12-IV.D. GOOD CAUSE FOR UNIT REFUSAL**

Housing Authority Procedure

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the Housing Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a thirty (30) day notice to move.

The Housing Authority will require verifiable third-party documentation of good cause for unit refusals.

**12-IV.E. DECONCENTRATION**

Housing Authority Procedure

If subject to deconcentration requirements, the Housing Authority will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the Housing Authority's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

**12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS**

Housing Authority Procedure

The reexamination date will not be changed to the first of the month in which the transfer took place.

**Chapter 13**  
**LEASE TERMINATIONS**  
**24 CFR 966.4**

**INTRODUCTION**

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing. The Housing Authority may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which a Housing Authority can terminate a family's lease, and give the Housing Authority the right to determine other reasons.

When determining Housing Authority Procedure on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulations.

This chapter presents the policies that govern both the family's and Housing Authority's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the Housing Authority places upon families who wish to terminate their lease.

Part II: Termination by Housing Authority - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the Housing Authority occurs. This part also includes non-renewal of the lease for noncompliance with community service requirements.

Part III: Termination by Housing Authority – Other Authorized Reasons. This part describes the Housing Authority's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes Housing Authorities to terminate. For some of these options HUD requires the Housing Authority to establish policies and lease provisions for termination, but termination is not mandatory. For other options the Housing Authority has full discretion whether to consider the options as just cause to terminate as long as the Housing Authority policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the Housing Authority may consider in lieu of termination, and the criteria the Housing Authority will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and Housing Authority policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also describes record keeping related to lease termination.

## PART I: TERMINATION BY TENANT

### 13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the rental office or the Housing Authority Administration office or sent properly addressed by pre-paid first-class mail.

#### Housing Authority Procedure

If a family desires to move and terminate their tenancy with the Housing Authority, they must give at least thirty (30) calendar days advance written notice in accordance with state and local laws to the Housing Authority of their intent to vacate.

If a family must give less than thirty (30) days' notice due to circumstances beyond their control, the Housing Authority at its discretion, may waive the thirty (30) day requirement.

The notice of lease termination must be signed by the head of household, spouse, or co-head.

## PART II: TERMINATION BY THE HOUSING AUTHORITY – MANDATORY

### 13-II.A. OVERVIEW

HUD requires the Housing Authority to terminate the lease in certain circumstances. In other circumstances HUD requires the Housing Authority to establish provisions for lease termination, but it is still a Housing Authority option to determine, on a case-by-case basis, whether termination is warranted. **For those tenant actions or failures to act where HUD requires termination, the Housing Authority has no such option.** In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the Housing Authority to terminate the lease.

### 13-II.B. FAILURE TO SUPPLY INFORMATION AND/OR PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The Housing Authority **must** terminate the lease if any family member fails to sign and submit any consent form required for any reexamination. See Chapter 7, Verification for a complete description of consent requirements.

### 13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The family must supply any required evidence of citizenship or eligible immigration status. The Housing Authority must terminate the lease upon the occurrence of any of the following events:

1. Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified by the Housing Authority or by the expiration of any extension granted by the Housing Authority;
2. Evidence of citizenship and eligible immigration status is timely submitted, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of a family member, and

- i. The family does not pursue USCIS appeal or informal hearing rights as provided in this section; or
  - ii. USCIS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member; or
3. The Housing Authority determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.

See Chapter 7-Verification for a complete description of documentation requirements.

**13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3)], [Notice PIH 2018-24]**

The Housing Authority must terminate assistance if a participant family fails to disclose the complete and accurate Social Security Numbers (SSN) of each household member and the documentation necessary to verify each SSN.

However, if the family is otherwise eligible for continued program assistance, and the Housing 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 Housing Authority may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed ninety (90) calendar days from the date the Housing Authority determined the family to be noncompliant.

Housing Authority Procedure

The Housing Authority will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of ninety (90) calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the Social Security Administration (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.

See Chapter 7, Verification, for more information on documentation and certification requirements.

**13-II.E. FAILURE TO ACCEPT THE HOUSING AUTHORITY'S OFFER OF A LEASE REVISION [24 CFR 966.4(I)(2)(iii)(E)]**

The Housing Authority must terminate the lease if the family fails to accept the Housing Authority's offer of a lease revision to an existing lease:

1. That is on a form adopted by the Housing Authority in accordance with 24 CFR 966.3;
2. With written notice of the offer of the revision at least sixty (60) calendar days before the lease revision is scheduled to take effect; and



3. With the offer specifying a reasonable time limit within that period for acceptance by the family.

See Chapter 8, Leasing and Inspections for information pertaining to Housing Authority policies for offering lease revisions.

#### **13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]**

The Housing Authority must immediately terminate the lease if the Housing Authority determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing. See Part 13-III.B. below for the HUD definition of *premises*.

#### **13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]**

The Housing Authority is prohibited from renewing the lease at the end of the twelve (12) month period of the lease term when the family fails to comply with the community service requirements as described in Chapter 11-Community Service.

~~Pursuant to PIH Notice 2020-05 issued on April 10, 2020, PIH Notice 2020-13 issued on July 2, 2020, and subsequently PIH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing 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 Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH-14 extended to 12/31/2021~~

#### **13-II.H. DEATH OF A SOLE FAMILY MEMBER HOUSEHOLD [Notice PIH 2012-4]**

Once the Housing Authority has confirmed the death of the Head of Household (HOH) of a single member household or a household where the surviving household member is a live-in aide, the Housing Authority is required to complete and successfully submit a form HUD-50058 with the following:

- Line 2a-Type of Action = 6 (End of Participation (EOP))
- Line 2b-Effective Date of Action = Date of Death from Deceased Tenants Report, or as noted below. (If date is listed as "N/A", enter the date of death as confirmed by Obituary, Death Record, or information as obtained or as noted below.)
  - The Housing Authority is required to list the EOP date as:
  - The date on which the family or designee of the deceased tenant's estate turned in the keys and signed a vacate notice; or

- The date the public housing lease was terminated; or
- The date the Housing Authority legally regained possession of the unit, whichever occurs first.

**Public Housing Deceased Single Member Households with Unauthorized Occupants in Possession of the Public Housing Unit.**

Public Housing staff will conduct a home visit to determine if anyone is residing in the unit. If there are unauthorized persons (including a live-in aide) in the unit of a deceased single member household, the Housing Authority must pursue judicial intervention to have them lawfully removed from the unit.

To remove the deceased HOH from the Deceased Tenants Report in which there is pending litigation to regain possession of the public housing unit, the Housing Authority is required to complete and successfully submit an interim form HUD-50058 to PIC as outlined in PIH Notice 2012-4 or any succeeding PIH Notice.

**PART III: TERMINATION BY THE HOUSING AUTHORITY – OTHER AUTHORIZED REASONS**

**13-III.A. OVERVIEW**

Besides requiring the Housing Authority to terminate the lease under the circumstances described in Part II of this chapter, HUD requires the Housing Authority to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require Housing Authorities to terminate for such violations in all cases. In addition, the Housing Authority may consider alternatives to termination.

The Housing Authority has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the Housing Authority may, as an alternative to termination, require the exclusion of the culpable household member.

In addition, HUD authorizes the Housing Authority to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. In the development of the terms of the lease, the Housing Authority must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes.

The Housing Authority, with some restrictions, also has the option to terminate the tenancies of families who are over income.

**13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(I)]**

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations.

**Definitions [24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

*Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

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

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

*Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

*Household* means the family and Housing Authority-approved live-in aide.

*Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

*Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**Drug Crime On or Off the Premises [24 CFR 966.4(I)(5)(i)(B)]**

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

Housing Authority Procedure

The Housing Authority will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in or on the premises by any other person under the tenant's control.

1. The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.
2. In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

### **Illegal Use of a Drug [24 CFR 966.4(I)(5)(i)(B)]**

The lease must provide that the Housing Authority may evict a family when the Housing Authority determines that a household member is illegally using a drug or when the Housing Authority 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.

#### Housing Authority Procedure

The Housing Authority will terminate the lease when the Housing Authority determines that a household member is illegally using a drug or the Housing Authority 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.

1. A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six (6) months.
2. The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.
3. In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

### **Threat to Other Residents [24 CFR 966.4(I)(5)(ii)(A)]**

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Housing Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises are grounds for termination of tenancy.

#### Housing Authority Procedure

The Housing Authority will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Housing Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

1. *Immediate vicinity* means within a three-block radius of the premises.
2. The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.
3. In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

### **Alcohol Abuse [24 CFR 966.4(I)(5)(vi)(A)]**

Housing Authorities must establish standards that allow termination of tenancy if the Housing Authority determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Housing Authority Procedure

The Housing Authority will terminate the lease if the Housing Authority determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

1. A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six (6) months.
2. The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

**Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(I)(5)(vi)(B)]**

Housing Authorities must establish standards that allow termination of tenancy if the Housing Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

Housing Authority Procedure

The Housing Authority will terminate the lease if the Housing Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

1. The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.
2. In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

**Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(I)(2)(i) and 24 CFR 966.4(f)]**

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination. The Housing Authority may terminate the tenancy only for:

1. Serious or repeated violation of material terms of the lease, such as the following:
  - i. Failure to make payments due under the lease; or
  - ii. Failure to fulfill household obligations, as described in 24 CFR 966.4(f).

Housing Authority Procedure

The Housing Authority will terminate the lease for the following serious or repeated of material terms of the lease:

1. Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8-Leasing and Inspections for details pertaining to lease requirements for payments due);
2. Repeated late payment of rent or other charges. Four (4) late payments within a six (6) month period shall constitute a repeated late payment.
3. Failure to fulfill the following household obligations:
  1. Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
  2. Not to provide accommodations for boarders or lodgers.
  3. To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose.
  4. To abide by necessary and reasonable regulations promulgated by the Housing Authority for the benefit and well-being of the housing project and the tenants which shall be posted in the rental office and incorporated by reference in the lease.
  5. To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.
  6. To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition.
  7. To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.
  8. To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances include elevators.
  9. To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or development.
  10. To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the development (including damages to buildings, facilities or common areas) caused by the tenant, a member of the household or a guest.
  11. To act, and cause household members or guests to act, in a manner which will

not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the development in a decent, safe and sanitary condition.

12. To assure that no tenant, member of the tenant's household, or guest engages:

- (i) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (ii) Any drug-related criminal activity on or off the premises
- (xiii) To assure that no other person under the tenant's control engages in:

13. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; or

- (i) Any drug-related criminal activity

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

**13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4 (I)]**

HUD authorizes Housing Authorities to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

**Other Good Cause**

The regulations provide examples of other good cause, but do not limit the Housing Authority to only those examples.

Housing Authority Procedure

The Housing Authority will terminate the lease for the following reasons.

1. Fugitive Felon or Parole Violator: If a tenant, member of tenant's household, or guest 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 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.
2. Persons subject to sex offender registration requirement: If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
3. Discovery after admission of facts that made the tenant ineligible.
4. Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income.
5. Failure to furnish such information and certifications regarding family composition

and income as may be necessary for the Housing Authority to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.

6. Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the Housing Authority that such a dwelling unit is available.
7. Failure to permit access to the unit by the Housing Authority after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.
8. Failure to promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within thirty (30) days of the event.
9. Failure to abide by the provisions of Housing Authority policies.
10. If the family has breached the terms of a repayment agreement entered into with the Housing Authority.
  1. If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
  2. If a household member has engaged in or threatened violent or abusive behavior toward Housing Authority personnel.
    - **Abusive or violent behavior towards Housing Authority personnel** includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - **Threatening** refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D of this chapter as well as other factors as described in Section 13-III.E of this chapter.

#### **Family Absence from Unit [24 CFR 982.551(i)]**

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the Housing Authority needs a Procedure on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

#### Housing Authority Procedure

The family must supply any information or certification requested by the 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 absences. The family must cooperate with the Housing Authority for this purpose.

The family must promptly notify the Housing Authority when all family members will be absent from the unit for an extended period. An extended period is defined as more than thirty (30) calendar days. If a family is absent from the public housing unit for more than, ninety (90) cumulative days and the family does not adequately verify that they are living in the unit, the Housing Authority will terminate the lease for other good cause.

*Abandonment.* If the family appears to have vacated the unit without giving proper notice, the Housing Authority will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the Housing Authority will secure the unit immediately to prevent vandalism and other criminal activity.

**Over-Income Families [24 CFR 960.261**

Subject to certain restrictions, HUD authorizes Housing Authorities to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the Housing Authority may not evict or terminate the tenancy of a family solely because the family is over income if:

- a. The family has a valid contract of participation in the Family Self-Sufficiency (FSS) program; or
- b. The family is currently receiving the earned income disallowance.

The over-income requirement states that after a family's income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two (2) consecutive years. The Housing Authority must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is higher of the applicable market rent (FMR) or the amount from the operating and capital fund.

Housing Authority Procedure

The Housing Authority may evict or terminate the tenancies of families solely because they are over income.

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the Housing Authority will document the family file and begin tracking the family's over-income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the Housing Authority will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to the Housing Authority over income policies.

If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the Housing Authority will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The Housing Authority will notify the family in writing of their

new rent amount. The new rent amount will be effective 30 days after the Housing Authority written notice to the family.

If, at any time, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with Housing Authority. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over income provisions as of the effective date of the recertification. The Housing Authority will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period.

The Housing Authority will track over-income families.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020, HUD is waiving the requirement that PHAs terminate rental assistance or charge an alternative rent to families whose income exceeds the program maximum over two consecutive reexamination cycles through June 30, 2021. Through this waiver PHAs would be allowed to permit over-income families to remain in their units instead of being terminated and will be charged the applicable FMR as the family's monthly rental amount. HUD Issued Extension to Waiver PH-14- extended to 12/31/2021~~

**13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]**

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the Housing Authority may consider exclusion of the culpable household member.

Housing Authority Procedure

The Housing Authority may consider requiring the tenant to exclude a culpable household member, in order to continue to reside in the assisted unit, where that culpable household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household 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 written third party written documentation of the former culpable household member's current address.

**Repayment of Family Debts**

Housing Authority Procedure

If a family owes amounts to the Housing Authority, as a condition of continued occupancy, the Housing Authority will require the family to repay the full amount or to enter into a repayment agreement, within thirty (30) days of receiving notice from the Housing Authority of the amount owed. See Chapter 16-Program Administration for policies on repayment agreements.

### 13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A Housing Authority that has grounds to terminate a tenancy is not required to do so, except as explained in Part II, Termination by Housing Authority - Mandatory of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

#### Evidence

For criminal activity, HUD permits the Housing Authority to terminate the lease 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, and without satisfying the standard of proof used for a criminal conviction.

#### Housing Authority Procedure

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

- *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show 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 966.4(I)(5)(vii)(B)]**

In a manner consistent with such policies, procedures and practices, the Housing Authority may consider all circumstances relevant to a particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

#### Housing Authority Procedure

The Housing Authority will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- a. The seriousness of the offending action, especially with respect to how it would affect other residents.
- b. The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities.
- c. The effects that the eviction will have on other family members who were not involved in the action or failure to act.
- d. The effect on the community of the termination, or of the Housing Authority's failure to terminate the tenancy.
- e. The effect of the Housing Authority's decision on the integrity of the public housing program.

- f. The demand for housing by eligible families who will adhere to lease responsibilities.
- g. The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action.
- h. The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future.
- i. In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

**Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]**

HUD authorizes Housing Authorities to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

Housing Authority Procedure

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the Housing Authority will 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.

For this purpose, the Housing Authority will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

**Reasonable Accommodation [24 CFR 966.7]**

If the family includes a person with disabilities, the Housing Authority's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with [24 CFR Part 8].

Housing Authority Procedure

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the Housing Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Housing Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Housing Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2, Fair Housing and Equal Opportunity.

**Non-discrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]**

The Housing Authority's eviction actions must be consistent with fair housing and equal opportunity provisions of [24 CFR 5.105].

**PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING**

### **13-IV.A. OVERVIEW**

HUD regulations specify the notification requirements that must be provided to the resident prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities, which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

### **13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]**

HUD authorizes Housing Authorities to conduct criminal records checks on public housing residents for lease enforcement and eviction. Housing Authority Procedure determines when the Housing Authority will conduct such checks.

#### Housing Authority Procedure

The Housing Authority will conduct criminal background checks when it has come to the attention of the Housing Authority, either from local law enforcement or by other means, that a resident may be engaging in criminal activity, including, but not limited to, the following:

- a. Engaging in the destruction of property;
- b. Engaging in violent activity against another person; or
- c. Has interfered with the right to peaceful enjoyment of the premises of other residents.

Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms (including release of information form). If there is not one file, one must be signed.

### **13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]**

In conducting criminal records checks, if the Housing Authority uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken.

In such cases if the Housing Authority obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the Housing Authority must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

#### Housing Authority Procedure

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the Housing Authority will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given ten (10) calendar days from the date of the Housing Authority notice, to dispute the accuracy and relevance of the information. If the family does not contact the Housing Authority to dispute the information within that ten (10) calendar day period, the Housing Authority will proceed with the termination action.

**13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(I)(3)] Form, Delivery, and Content of the Notice**

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine Housing Authority documents directly relevant to the termination or eviction. If the Housing Authority does not make the documents available for examination upon request by the tenant, the Housing Authority may not proceed with the eviction [24 CFR 966.4(m)].

When the Housing Authority is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the Housing Authority's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the Housing Authority is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens the health, safety or right to peaceful enjoyment or for drug- related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the Housing Authority for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority, or for a drug-related criminal activity on or off the premises.

Housing Authority Procedure

The Housing Authority will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be posted on the tenant's front door and sent by first class mail.

**Timing of the Notice [24 CFR 966.4(I)(3)(i)]**

The Housing Authority must give written notice of lease termination for the following:

- a. Fourteen (14) calendar days in the case of failure to pay rent.
- b. A reasonable period of time considering the seriousness of the situation (but not to exceed thirty (30) calendar days):
  - If the health or safety of other residents, Housing Authority employees, or persons residing in the immediate vicinity of the premises is threatened;

- If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or
  - If any member of the household has been convicted of a felony.
- c. Thirty (30) calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply.

Housing Authority Procedure

The Housing Authority will give written notice of ten (10) days for criminal activity. The Housing Authority will give written notice of fourteen (14) calendar days for nonpayment of rent. For all other lease terminations, the Housing Authority will give no more than thirty (30) days written notice or, if state or local law allows less than thirty (30) days, such shorter notice will be given.

**Notice of Non-Lease Renewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]**

When the Housing Authority determines that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Chapter 11, Community Service, Section 11-I.E.

Housing Authority Procedure

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required time frame, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the twelve (12) month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Chapter 11-Community Service, Section 11-I.E. and will also serve as the notice of termination of tenancy.

~~Pursuant to PHH Notice 2020-05 issued on April 10, 2020, PHH Notice 2020-13 issued on July 2, 2020, and subsequently PHH Notice 2020-33 issued on November 30, 2020. The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA. These waivers and alternative requirements are established under the authority of the CARES Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PHH 2020-05 and restated in this Notice 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 public housing waivers is in most cases extended to June 30, 2021. HUD is waiving the requirement that PHAs alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. HUD Issued Extension to Waiver PH 14 extended to 12/31/2021~~

**Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the Housing Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14- Grievances and Appeals for the Housing Authority's informal hearing procedures.

**13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]**

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 Housing Authority may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

The Housing Authority may not proceed with an eviction action if the Housing Authority has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

Housing Authority Procedure

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the Housing Authority will follow state and local landlord- tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the Housing Authority will seek the assistance of the court to remove the family from the premises as per state and local law.

**13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]**

When the Housing Authority evicts an individual or family for criminal activity, including drug- related criminal activity, the Housing Authority must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

**13-IV.G. RECORD KEEPING**

For more information concerning general record keeping, see Chapter 16-Program Administration.

Housing Authority Procedure

A written record of every termination and/or eviction will be maintained by the Housing Authority for four (4) years at the development where the family was residing, and the file will contain the following information:

- a. Name of resident, number and identification of unit occupied.
- b. Date of the notice of lease termination and any other notices required by state or



local law; these notices may be on the same form and will run concurrently.

- c. Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905).
- d. Date and method of notifying the resident.
- e. Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

## Chapter 14 GRIEVANCES AND APPEALS

### INTRODUCTION

This chapter discusses grievances and appeals pertaining to Housing Authority actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Reviews for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

### PART I: INFORMAL REVIEWS FOR PUBLIC HOUSING APPLICANTS

#### 14-I.A. OVERVIEW

When the Housing Authority makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review. HUD regulations do not provide a structure for or requirements regarding informal reviews for applicants (except with regard to citizenship status, to be covered in Part II of this chapter). This part discusses the Housing Authority policies necessary to respond to applicant appeals through the informal review process.

#### 14-I.B. INFORMAL REVIEW PROCESS [24 CFR 960.208(a)]

Informal reviews are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal reviews are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in the Housing Authority grievance procedure [24 CFR 966.53(a)].

Informal reviews provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

#### Use of Informal Review Process

While the Housing Authority must offer the opportunity of an informal review to applicants who have been determined as ineligible for admission, the Housing Authority could make the informal review process available to applicants who wish to dispute other Housing Authority actions that adversely affect them.

#### Housing Authority Procedure

The Housing Authority will only offer informal reviews to applicants for the purpose of disputing denials of admission.

### **Notice of Denial [24 CFR 960.208(a)]**

The Housing Authority must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the Housing Authority decision, and must also state that the applicant may request an informal review to dispute the decision. The notice must describe how to obtain the informal review.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Chapter 3-Eligibility, Section 3.III.G. Notice of Eligibility or Denial, for details concerning this requirement.

### **Scheduling an Informal Review**

#### Housing Authority Procedure

A request for an informal review must be made in writing and delivered to the Housing Authority either in person or by first class mail, by the close of the business day, no later than ten (10) calendar days from the date of the Housing Authority's notification of denial of admission.

The Housing Authority must schedule and send written notice of the informal review within ten (10) calendar days of the family's request. The review may be conducted in person, telephonically or via video-teleconferencing such as GoToMeeting, or through other virtual platforms, as designated by the Housing Authority.

### **Conducting an Informal Review**

#### Housing Authority Procedure

The informal review will be conducted by a person other than the one who made the decision under review. The review may be conducted by Director of Housing Programs or his/her designee, or a hearing officer.

The applicant will be provided an opportunity to present written or oral objections to the decision of the Housing Authority.

The person conducting the informal review will make a recommendation to the Housing Authority, but the Housing Authority is responsible for making the final decision as to whether admission should be granted or denied.

### **Informal Review Decision**

#### Housing Authority Procedure

The Housing Authority will notify the applicant of the Housing Authority's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Housing Authority will evaluate the following matters:

- a. Whether or not the grounds for denial were stated factually in the notice;
- b. The validity of grounds for denial of admission: If the grounds for denial are not specified in the regulations or in Housing Authority Procedure, then the decision to deny assistance will be overturned. See Chapter 3-Eligibility for a detailed discussion of the grounds for applicant denial; and

- c. The validity of the evidence: The Housing Authority will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Housing Authority will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the Housing Authority will consider the recommendation of the person conducting the informal review in making the final decision whether to deny admission.

The Housing Authority will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, within ten (10) calendar days of the informal review, to the applicant representative, if any.

If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]**

Persons with disabilities may request a reasonable accommodation to participate in the informal review process and the Housing Authority must consider such reasonable accommodation requests. The Housing Authority must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2, Fair Housing and Equal Opportunity for more detail pertaining to reasonable accommodation requests.

**PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

**14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) formerly known as Immigration and Naturalization Service (INS) appeal process. Assistance to a family may not be terminated or denied while the Housing Authority hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the Housing Authority informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapter 3-Eligibility and Chapter 13-Lease Terminations, the notice of denial or termination of assistance for noncitizens must advise the family of any of the

following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the Housing Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]**

When the Housing Authority receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the Housing Authority must notify the family of the results of the USCIS verification. The family will have thirty (30) days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the Housing Authority with a copy of the written request for appeal and proof of mailing.

Housing Authority Procedure

The Housing Authority will notify the family in writing of the results of the USCIS secondary verification within ten (10) calendar days of receiving the results.

The family must provide the Housing Authority with a copy of the written request for appeal and proof of mailing within ten (10) calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the Housing Authority, of its decision. When the USCIS notifies the Housing Authority of the decision, the Housing Authority must notify the family of its right to request an informal hearing.

Housing Authority Procedure

The Housing Authority will send written notice to the family of its right to request an informal hearing within ten (10) calendar days of receiving notice of the USCIS decision

regarding the family's immigration status.

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the Housing Authority provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of the Housing Authority notice of denial, or within thirty (30) days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

**Informal Hearing Officer**

The Housing Authority must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

**Evidence**

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the Housing Authority pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

Housing Authority Procedure

The family will be allowed to copy any documents related to the hearing at a cost of \$.35 per page. The family must request discovery of Housing Authority documents no later than two (2) business days prior to the hearing. Due to COVID-19, the Authority will provide copies to the family of the documents, records and regulations that are directly relevant to the hearing by mail.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the Housing Authority, and to confront and cross-examine all witnesses on whose testimony or information the Housing Authority relies.

**Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the Housing Authority, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the Housing Authority is still obligated to provide oral translation services in accordance with its Language Access Plan (LAP).

**Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The Housing Authority may, but is not required to provide a transcript of the hearing.

### Housing Authority Procedure

The Housing Authority will not provide a transcript of an audio tape at the time of the informal hearing.

### **Hearing Decision**

The Housing Authority must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within ten (10) calendar days of the date of the informal hearing. The notice must state the basis for the decision.

### **Retention of Documents [24 CFR 5.514(h)]**

The Housing Authority must retain for a minimum of five (5) years the following documents that may have been submitted to the Housing Authority by the family, or provided to the Housing Authority as part of the USCIS appeal or the Housing Authority informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

### **Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the Housing Authority provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of the Housing Authority notice of termination, or within thirty (30) days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III of this chapter.

## **PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS**

### **14-III.A. REQUIREMENTS [24 CFR 966.52]**

Housing Authorities must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any Housing Authority action or failure to act involving the lease or Housing Authority policies which adversely affect their rights,

duties, welfare, or status.

Housing Authority Procedure

The Housing Authority grievance procedure will be incorporated by reference in the tenant lease.

The Housing Authority must provide at least thirty (30) day notice to tenants and resident organizations setting forth proposed changes in the Housing Authority grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the Housing Authority before adoption of any grievance procedure changes by the Housing Authority.

Housing Authority Procedure

Residents and resident organizations will have thirty (30) calendar days from the date they are notified by the Housing Authority of any proposed changes in the Housing Authority grievance procedure, to submit written comments to the Housing Authority.

The Housing Authority must furnish a copy of the grievance procedure to each tenant.

**14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]**

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to Housing Authority action or failure to act in accordance with the individual resident’s lease or Housing Authority regulations which adversely affect the individual resident’s rights, duties, welfare or status.
- **Complainant** – any resident whose grievance is presented to the Housing Authority or at the project management office.
- **Due Process Determination** – a determination by HUD that laws of the jurisdiction require that the tenant must be given the opportunity for a hearing in court, which provides the basic elements of due process before eviction from the dwelling unit.
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  1. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction.
  2. Right of the tenant to be represented by counsel.
  3. Opportunity for the tenant to refute the evidence presented by the Housing Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have.
  4. A decision on the merits.



- Business Days shall mean Monday through Friday (excepting holidays and other days in which Housing Authority's office is scheduled to be closed) during regular office hours.
- Escrow Funds shall mean money placed in a separate account to be held until decision of the hearing officer(s).
- **Hearing Officer** – a person selected in accordance with HUD regulations (24 CFR 966.55) to hear grievances and render a decision with respect thereto.
- **Resident** – the adult person (or persons) (other than a live-in aide):
  1. Who resides in the unit, and who executed the lease with the Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the unit, or
  2. Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
- **Resident Organization** – includes a resident management corporation.

**14-III.C. APPLICABILITY [24 CFR 966.51]**

Potential grievances could address most aspects of a Housing Authority's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the Housing Authority. It is not applicable to disputes between tenants not involving the Housing Authority. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating Procedure changes of the Housing Authority.

If HUD has issued a due process determination, the Housing Authority may exclude from the Housing Authority grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- **Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority;**
- **Any violent or drug-related criminal activity on or off such premises; or**
- **Any criminal activity that resulted in felony conviction of a household member.**

In states without due process determinations, Housing Authorities must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E. of this chapter, to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, the Housing Authority may evict through the state/local judicial eviction procedures. In this case, the Housing Authority is not

required to provide the opportunity for a hearing under the Housing Authority's grievance procedure as described above.

Housing Authority Procedure

The Housing Authority is located in a due process state. Therefore, the Housing Authority will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority, or for drug-related criminal activity on or off the premises.

**14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the Housing Authority Administration office or the rental office in the development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

Housing Authority Procedure

The Housing Authority will accept requests for an informal settlement of a grievance either orally or in writing, to the rental office in the development in which the complainant resides within ten (10) calendar days to grieve the event. Within ten (10) calendar days of receipt of the request the Housing Authority will schedule and send written notice of the informal settlement within ten (10) calendar days of the family's request. The review may be conducted in person, telephonically or via video-teleconferencing such as GoToMeeting, or through other virtual platforms, as designated by the Housing Authority.

If a resident fails to attend the scheduled meeting without prior notice, the Housing Authority will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the Housing Authority's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

Housing Authority Procedure

The Housing Authority will prepare a summary of the informal settlement within ten (10) calendar days; one copy to be given to the tenant and one copy to be retained in the Housing Authority's tenant file.

**14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55] Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]**

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer, the hearing officer may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

Housing Authority Procedure

The resident must submit a written request for a grievance hearing to the Housing Authority within ten (10) calendar days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the Housing Authority's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

**Scheduling of Hearings [24 CFR 966.55(f)]**

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the Housing Authority. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate Housing Authority official.

Housing Authority Procedure

Within ten (10) calendar days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the Housing Authority. 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.

The Housing Authority may wish to permit the tenant to request to reschedule a hearing for good cause.

Housing Authority Procedure

The resident may request to reschedule a hearing once for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made in writing at least twenty-four (24) hours prior to the hearing date. The Housing Authority will request third party verification of the "good cause" prior to rescheduling the hearing.

**14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.55(b)]**

The grievance hearing must be conducted by an impartial person or persons appointed by the Housing Authority, other than the person who made or approved the Housing Authority action under review, or a subordinate of such person.

Housing Authority Procedure

Housing Authority grievance hearings will be conducted by a single hearing officer and not a panel. The Housing Authority has designated the following to serve as hearing officers:

- Housing Authority staff at a supervisory level, management level or designee;
- Independent third party hired as a hearing officer.

The Housing Authority will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

**14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56] Rights of Complainant [24 CFR 966.56(b)]**

The complainant will be afforded a fair hearing which includes:

The opportunity to examine before the grievance hearing any Housing Authority documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant’s expense. If the Housing Authority does not make the document available for examination upon request by the complainant, the Housing Authority may not rely on such document at the grievance hearing.

Housing Authority Procedure

The resident will be allowed to copy any documents related to the hearing at a cost of \$.35 per page. The family must request discovery of Housing Authority documents no later than two (2) business days prior to the hearing. Due to COVID-19, the Authority will provide copies to the family of the documents, records and regulations that are directly relevant to the hearing by mail prior to the remote hearing. The participant shall be provided an accessible means by which to transmit the individual’s own evidence, such as through email.

The right to be represented by counsel or other person chosen as the tenant’s representative and to have such person make statements on the tenant’s behalf.

Limited English Proficiency (LEP)

The PHA will coordinate with a remote language interpretation service prior to the remote hearing to provide meaningful access for LEP persons.

Housing Authority Procedure

Hearings may be attended by the following applicable persons:

- A Housing Authority representative(s) and any witnesses for the Housing Authority;
- The tenant and any witnesses for the tenant;

- The tenant's counsel or other representative; and
- Any other person approved by the Housing Authority as a reasonable accommodation for a person with a disability.
- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the Housing Authority or project management, and to confront and cross-examine all witnesses upon whose testimony or information the Housing Authority or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

**Decision without Hearing [24 CFR 966.56(c)]**

The hearing officer may render a decision without proceeding with the hearing if the hearing officer determines that the issue has been previously decided in another proceeding.

**Failure to Appear [24 CFR 966.56(d)]**

If the complainant or the Housing Authority fails to appear at a scheduled hearing, the hearing officer may decide to postpone the hearing for not to exceed five (5) business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the Housing Authority must be notified of the determination by the hearing officer; *provided* that a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the Housing Authority's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances, which are out of their control and are no fault of their own.

Housing Authority Procedure

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to fifteen (15) minutes. If the tenant appears within fifteen (15) minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within fifteen (15) minutes of the scheduled time, they will be considered to have failed to appear. If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the Housing Authority within twenty-four (24) hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

**General Procedures [24 CFR 966.56(e), (f), and (g)]**

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the Housing Authority must sustain the burden of justifying the Housing Authority action or failure to act against which the complaint is directed.

The hearing must be conducted informally by the hearing officer. The Housing Authority and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### Housing Authority Procedure

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

1. **Oral evidence:** the testimony of witnesses
2. **Documentary evidence:** a writing, which is relevant to the case, for example, a letter written to the Housing Authority. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
3. **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
4. **Real evidence:** A tangible item relating directly to the case.

If the Housing Authority fails to comply with the discovery requirements (providing the tenant with the opportunity to examine Housing Authority documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the Housing Authority to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer must require the Housing Authority, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the Housing Authority may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing.

#### Housing Authority Procedure

If the complainant would like the Housing Authority to record the proceedings by audiotape, the request must be made to the Housing Authority at least two (2) business days prior to the hearing.

The Housing Authority will consider that an audio tape recording of the proceedings is a transcript.

Any interested party may purchase a copy of such transcript for \$2.00 [24 CFR 966.56(g)].

#### **Reasonable Accommodations of Persons with Disabilities [24 CFR 966.56(h)]**

The Housing Authority must provide reasonable accommodation for persons with

disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

#### **Individualized auxiliary aids or services**

The Housing Authority will provide effective communication in a digital context, individualized AA/S may include audio description, captioning, and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts.

If the tenant is visually impaired, any notice to the tenant, which is required in the grievance process, must be in an accessible format. See Chapter 2, Fair Housing and Equal Opportunity, for a thorough description of the Housing Authority's responsibilities pertaining to reasonable accommodation.

If no method of conducting a remote hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote hearing. The PHA should consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative to meet the participant's satisfaction more expeditiously.

#### **14-III.H. DECISION OF THE HEARING OFFICER [24 CFR 966.57 (a)(b)(c)]**

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and the Housing Authority. The Housing Authority must retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the Housing Authority and made available for inspection by a prospective complainant, representative, or the hearing officer [24 CFR 966.57(a)].

#### Housing Authority Procedure

In rendering a decision, the hearing officer will consider the following matters:

1. **Housing Authority Notice to the Family:** The hearing officer will determine if the reasons for the Housing Authority's decision are factually stated in the notice.
2. **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with Housing Authority Procedure.
3. **Housing Authority Evidence to Support the Housing Authority Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the Housing Authority's conclusion.
4. **Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and Housing Authority policies. If the grounds for termination are not specified in the regulations or in compliance with Housing Authority policies, then the decision of the Housing Authority will be overturned.

The hearing officer will issue a written decision to the family and the Housing Authority no later than ten (10) calendar days after the hearing. The report will contain the following information:

1. **Hearing information:**
  - Name of the complainant
  - Date, time and place of the hearing
  - Name of the hearing officer
  - Name of the Housing Authority representative(s)
  - Name of family representative (if any)
  - Names of witnesses (if any)
2. **Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.
3. **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
4. **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.
5. **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Housing Authority's decision.
6. **Order:** The hearing report will include a statement of whether the Housing Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Housing Authority to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the Housing Authority to restore the family's status.

### **Procedures for Further Hearing**

#### Housing Authority Procedure

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 Housing Authority will take effect and another hearing will not be granted.

### **Final Decision [24 CFR 966.57(b)]**

The decision of the hearing officer is binding on the Housing Authority which must take the action, or refrain from taking the action cited in the decision unless the Housing Authority Board of Commissioners determines within a reasonable time, and notifies the complainant



that:

- The grievance does not concern Housing Authority action or failure to act in accordance with or involving the complainant's lease on Housing Authority policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to Federal, state, or local law, HUD regulations or requirements of the Annual Contributions Contract (ACC) between HUD and the Housing Authority.

A decision by the hearing officer in favor of the Housing Authority or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

## **Chapter 15 PROGRAM INTEGRITY**

### **INTRODUCTION**

The Housing Authority is committed to ensuring that funds made available to the Housing Authority are spent in accordance with HUD requirements.

This chapter covers HUD and Housing Authority policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents Housing Authority policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the Housing Authority must and may take when errors or program abuses are found.

### **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

#### **15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide the Housing Authority with a powerful tool for preventing errors and program abuse. The Housing Authority is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. -Housing Authorities are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations."
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

#### Housing Authority Procedure

The Housing Authority anticipates that the vast majority of families and Housing Authority employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the Housing Authority's program is administered effectively and according to the highest ethical and legal standards, the Housing Authority will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Housing Authority will employ a variety of methods to detect errors and program abuse, including:

1. The Housing Authority will provide each applicant and resident with a copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

2. The Housing Authority will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the Housing Authority will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
3. The Housing Authority will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.
4. The Housing Authority will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The Housing Authority will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing checklist to confirm that all rules and pertinent regulations were explained to them.
5. Housing Authority staff will be required to review and explain the contents of all HUD and Housing Authority required forms prior to requesting family member signatures.
6. The Housing Authority will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key Housing Authority forms and form letters that request information from a family member.
7. The Housing Authority will provide each Housing Authority employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

#### **15-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the Housing Authority will use a variety of activities to detect errors and program abuse.

##### **Quality Control and Analysis of Data**

###### Housing Authority Procedure

The Housing Authority will employ a variety of methods to detect errors and program abuse, including:

1. The Housing Authority routinely will use available sources of up-front income verification to compare with family-provided information.
2. At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
3. The Housing Authority will compare family-reported income and expenditures to

detect possible unreported income.

### **Independent Audits and HUD Monitoring**

The Office of Management and Budget (OMB), Circular A-133 requires the Housing Authority that expends \$500,000 or more in federal awards annually to have an independent audit. In addition, HUD conducts periodic on-site and automated monitoring of Housing Authority activities and notifies the Housing Authority of errors and potential cases of program abuse.

#### Housing Authority Procedure

The Housing Authority will use the results reported in any independent audit or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Housing Authority's error detection and abuse prevention efforts.

### **Individual Reporting of Possible Errors and Program Abuse**

#### Housing Authority Procedure

The Housing Authority will encourage staff, residents, and the public to report possible program abuse.

### **15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE When the Housing Authority Will Investigate**

#### Housing Authority Procedure

The Housing Authority will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Housing Authority to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Housing Authority will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

### **Consent to Release of Information [24 CFR 960.259]**

The Housing Authority may investigate possible instances of error or abuse using all available Housing Authority and public records. If necessary, the Housing Authority will require applicant/resident families to give consent to the release of additional information.

### **Analysis and Findings**

#### Housing Authority Procedure

The Housing Authority will base its evaluation on a preponderance of the evidence collected during its investigation.

For each investigation the Housing Authority will determine:

- a. Whether an error or program abuse has occurred;
- b. Whether any amount of money is owed to the Housing Authority; and
- c. What corrective measures or penalties will be assessed.

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the Housing Authority will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### Housing Authority Procedure

In the case of family-caused errors or program abuse, the Housing Authority will take into consideration:

- a. The seriousness of the offense and the extent of participation or culpability of individual family members;
- b. Any special circumstances surrounding the case;
- c. Any mitigating circumstances related to the disability of a family member; and/or
- d. The effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### Housing Authority Procedure

The Housing Authority will inform the tenant in writing of its findings and remedies within ten (10) calendar days of the conclusion of the investigation. The notice will include:

- a. A description of the error or program abuse;
- b. The basis on which the Housing Authority determined the error or program abuses;
- c. The remedies to be employed; and
- d. The family's right to appeal the results through an informal hearing or grievance hearing (Chapter 14-Grievances and Appeals).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDERPAYMENT OR OVERPAYMENT**

An underpayment or overpayment includes an incorrect tenant rent payment by the family or an incorrect utility reimbursement to a family.

#### **Corrections**

##### Housing Authority Procedure

Whether the incorrect rental determination is an overpayment or underpayment, the Housing Authority must promptly correct the tenant rent and any utility reimbursement prospectively.

In this case, an increase will be effective after the required thirty (30) day notice prior to the first of the month after completion of processing by the Housing Authority. If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

## **Reimbursement**

Whether the family is required to reimburse the Housing Authority or the Housing Authority is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **15-II.B. FAMILY CAUSED ERRORS AND PROGRAM ABUSE**

General administrative requirements for participating in the program are discussed throughout the Admissions and Continued Occupancy Procedure (ACOP). This section deals specifically with errors and program abuse by family members. An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the Housing Authority to use incorrect information provided by a third party.

#### **Family Reimbursement to Housing Authority**

##### Housing Authority Procedure

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The Housing Authority may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16, Program Administration. If the family fails to repay the amount owed, the Housing Authority will terminate the family's lease in accordance with the policies in Chapter 13, Lease Terminations.

#### **Housing Authority Reimbursement to Family**

##### Housing Authority Procedure

The Housing Authority will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

#### **Prohibited Actions**

An applicant or resident in the public housing program must not knowingly:

- a. Make a false statement to the Housing Authority [Title 18 U.S.C. Section 1001].
- b. Provide incomplete or false information to the Housing Authority [24 CFR 960.259(a)(4)].
- c. Commit fraud or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

##### Housing Authority Procedure

Any of the following will be considered evidence of family program abuse:

- a. Offering bribes or illegal gratuities to the Housing Authority Board of Commissioners, employees, contractors, or other Housing Authority representatives;
- b. Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the Housing Authority on the family's behalf;
- c. Use of a false name or the use of falsified, forged, or altered documents;

- d. Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition);
- e. Omitted facts that were obviously known by a family member (e.g., not reporting employment income); and/or
- f. Admission of program abuse by an adult family member.

The Housing Authority may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

#### **Penalties for Program Abuse**

In the case of program abuse caused by a family, the Housing Authority may, at its discretion, impose any of the following remedies:

- The Housing Authority will require the family to repay any amounts owed to the program (Section 15-II.B of this chapter, Family Reimbursement to Housing Authority).
- The Housing Authority will require, as a condition of receiving or continuing assistance, that a culpable family member will not reside in the unit, Chapter 3, Eligibility (for applicants) and Chapter 13, Lease Terminations (for residents).
- The Housing Authority will deny admission or terminate the family's lease following the policies set forth in Chapter 3, Eligibility (for applicants) and Chapter 13, Lease Terminations (for residents).
- The Housing Authority may refer the family for state or federal criminal prosecution as described in section 15-II.D of this chapter.

#### **15-II.C. HOUSING AUTHORITY CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of Housing Authority staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a Housing Authority staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the Housing Authority personnel Procedure.

Housing Authority caused incorrect rent determinations include:

1. Failing to correctly apply public housing rules regarding:
  - a. Family composition
  - b. Income
  - c. Assets
  - d. Expenses

2. Errors in calculations.

**Repayment to the Housing Authority**

The family is not required to repay an underpayment of rent if the error or program abuse is caused by Housing Authority staff.

**Housing Authority Reimbursement to Family**

The Housing Authority will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff caused error or staff program abuse.

**Prohibited Activities**

Housing Authority Procedure

Any of the following will be considered evidence of program abuse by Housing Authority staff:

- a. Failure to comply with any public housing program requirements for personal gain.
- b. Failure to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident.
- c. Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the Housing Authority.
- d. Disclosing confidential or proprietary information to outside parties.
- e. Gaining profit as a result of insider knowledge of Housing Authority activities, policies, or practices.
- f. Misappropriating or misusing public housing funds.
- g. Destroying, concealing, removing, or inappropriately using any records related to the public housing program.
- h. Committing any other corrupt or criminal act in connection with any federal housing program.

**15-II.D. CRIMINAL PROSECUTION**

Housing Authority Procedure

When the Housing Authority determines that program abuse by a family or Housing Authority staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the Housing Authority will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

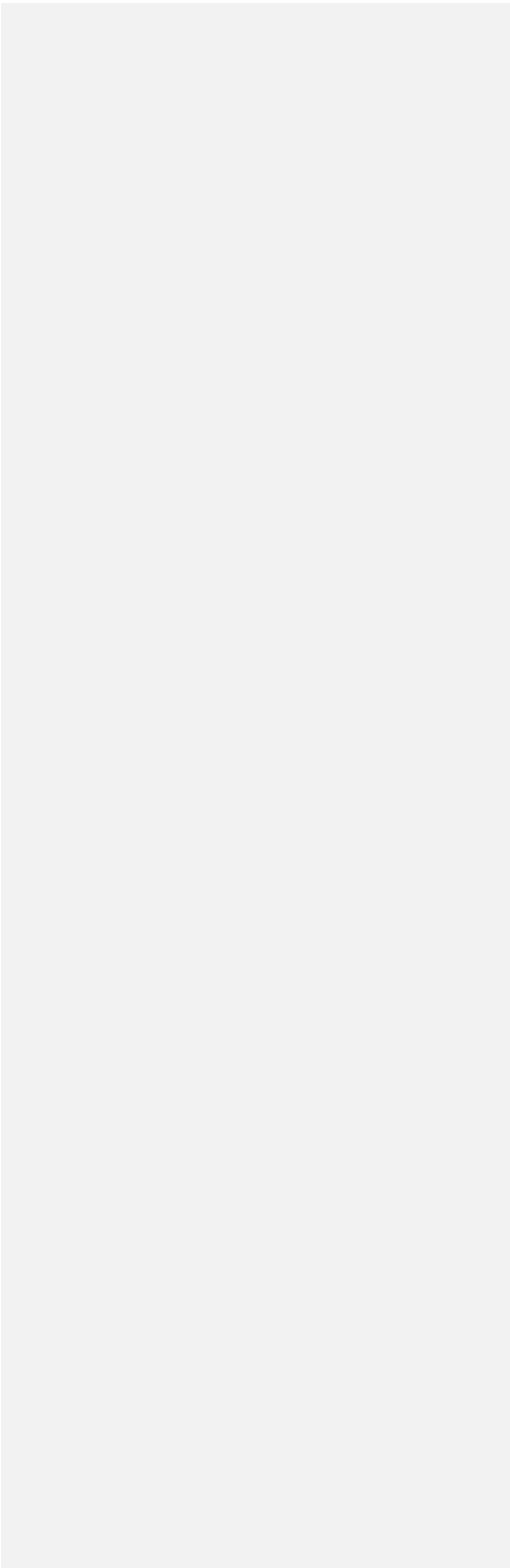


**15-II.E. FRAUD AND PROGRAM ABUSE RECOVERY**

Housing Authorities who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain one hundred percent (100%) of program funds that the Housing Authority recovers [PIH 2007-27].

If the Housing Authority fails to enter into a repayment agreement, initiate litigation or begin eviction proceedings, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the Housing Authority's grievance process.



## Chapter 16 PROGRAM ADMINISTRATION

### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six (6) parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of Housing Authority furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the Housing Authority will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how Housing Authorities are scored under PHAS, and how those scores affect a Housing Authority.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the Housing Authority will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the Housing Authority's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

### PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

#### 16-I.A. OVERVIEW

Housing Authorities must establish allowances for Housing Authority-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

The Housing Authority must maintain a record that documents the basis on which utility allowances are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

#### 16-I.B UTILITY ALLOWANCES

The Housing Authority must establish separate allowances for each utility and for each category of dwelling units the Housing Authority determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a Housing Authority in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-

conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, and fuel for heating, water, sewage, and solid waste disposal for a dwelling unit. In addition, if the Housing Authority does furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and siting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage.

#### **Air Conditioning**

"If a Housing Authority installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 24 CFR 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

#### **Housing Authority Procedure**

The Housing Authority has installed air-conditioning.

#### **Utility Allowance Revisions [24 CFR 965.507]**

The Housing Authority must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The Housing Authority may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of ten (10) percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

#### **Housing Authority Procedure**

Between annual reviews of utility allowances, the Housing Authority will only revise its utility allowances if such change, by itself or together with prior rate changes not adjusted for, results in a change of ten (10) percent or more from the rate on which the allowance was based.

**16-I.C. SURCHARGES FOR HOUSING AUTHORITY-FURNISHED UTILITIES [24 CFR 965.506]**

For dwelling units subject to allowances for Housing Authority furnished utilities where check meters have been installed.

**16-I.D. REASONABLE ACCOMMODATION [24 CFR 965.508]**

On request from a family that includes a disabled or elderly person, the Housing Authority must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family.

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

See Chapter 2, Fair Housing and Equal Opportunity for policies regarding the request and approval of reasonable accommodations.

**PART II: ESTABLISHING FLAT RENTS**

**16-II.A. OVERVIEW**

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Policies related to the use of flat rents, family choice of rent, flat rent hardships, are discussed in Chapter 6-Income and Rent Determinations.

**16-II.B. FLAT RENTS [24 CFR 960.253(b)] Establishing Flat Rents**

1. The PHA must establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR) as determined under 24 CFR part 888, subpart A; or
2. HUD may permit a flat rent of no less than 80 percent of an applicable small area FMR (SAFMR) or unadjusted rent, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in paragraph (b)(1) of this section. If HUD has not determined an applicable SAFMR or unadjusted rent, the PHA must rely on the applicable FMR under paragraph (b)(1) or may apply for an exception flat rent under paragraph (b)(3).
3. The PHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in paragraphs (b)(1) and (2) of this section, subject to the following requirements:
  - i. The PHA must submit a market analysis of the applicable market.
  - ii. The PHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.

- iii. All requests for exception flat rents under this paragraph (b)(3) must be submitted to HUD.

**Review of Flat Rents [24 CFR 960.253(b)]**

The flat rent is determined annually, based on the market rental value of the unit as determined by this paragraph (b).

Housing Authority Procedure

The Housing Authority will review flat rents as needed to ensure that flat rents continue to mirror market rent values.

The Housing Authority will set the flat rents at no less than eight percent (80%) of the published Fair Market Rent.

**Posting of Flat Rents**

Housing Authority Procedure

The Housing Authority will publicly post the schedule of flat rents in a conspicuous manner in the applicable rental office.

**Documentation of Flat Rents [24 CFR 960.253]**

The Housing Authority must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the Authority in accordance with this method.

**PART III: FAMILY DEBTS OWED TO THE HOUSING AUHTORITY**

**16-III.A. OVERVIEW**

This part describes the Housing Authority's policies for recovery of monies that have been underpaid by families.

Housing Authority Procedure

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the Housing Authority holds the family liable to return any underpayments to the Housing Authority.

The Housing Authority may enter into repayment agreements in accordance with the policies contained in this chapter as a means to recover overpayments. The term *repayment agreement* refers to a formal document signed by a tenant and provided to the Housing Authority in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to the Housing Authority, the Housing Authority may utilize other available collection alternatives including, but not limited to, the following:

1. Collection agencies
2. Small claims court
3. Civil law suit
4. State income tax set-off program
5. Referral to District Attorney

## 16-III.B. REPAYMENT PROCEDURE

### Family Debts Owed to the Housing Authority

#### Housing Authority Procedure

Any amount due to the Housing Authority by a public housing family must be repaid. If the family is unable to repay the debt within thirty (30) days, the Housing Authority may offer to enter into a repayment agreement with the family in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Housing Authority will terminate the family's tenancy in accordance with the policies in Chapter 14, Grievances and Appeals. The Housing Authority will also pursue other available collection alternatives.

### Repayment Agreement Guidelines

All repayment agreements must be in writing, dated, signed by both the tenant and the Housing Authority, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

1. Reference to the paragraphs in the Public Housing lease packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance in both.
2. The monthly retroactive rent repayment amount
3. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
4. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

### Down Payment Requirement

#### Housing Authority Procedure

Prior to the execution of a repayment agreement, the family must pay a minimum of twenty-five percent (25%) of the balance owed to the Housing Authority. The down payment requirement is only offered on balances over \$100 and the Housing Authority will only enter into repayment agreements on amounts over \$100.

### Payment Time Period Thresholds

#### Housing Authority Procedure

All amounts must be repaid within twelve (12) months. With the approval of the Director of Housing Programs, exceptions to the twelve (12) month time period may be made for mitigating circumstances

### Execution of the Agreement

#### Housing Authority Procedure

The head of household and spouse/co-head and all adult members (if applicable) must sign the repayment agreement.

**Due Dates**

Housing Authority Procedure

All payments are due by the 7<sup>th</sup> calendar day of the month.

**Non-Payment**

Housing Authority Procedure

If a payment is not received by the due date, and prior approval for the missed payment has not been given, the Housing Authority will send the family a delinquency notice giving the family fourteen (14) calendar days to make the payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13, Lease Terminations.

If a family receives four (4) delinquency notices for unexcused late payments in a six (6) month period, the repayment agreement will be considered in default, and the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13, Lease Terminations.

**No Offer of Repayment Agreement**

Housing Authority Procedure

The Housing Authority will not enter into a repayment agreement if there is already a repayment agreement in place with the family or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

**PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)**

**16-IV.A. OVERVIEW**

The Housing Authority operates its public housing program with efficiency and can demonstrate to HUD or its independent auditors that the Housing Authority is using its resources in a manner that reflects its commitment to quality and service. The Housing Authority's policies and practices are consistent with the new Public Housing Assessment System (PHAS) outline in the 24 CFR parts 901 and 902 final published regulations. The Housing Authority is consistently assessing its program and strives to make improvements. The Housing Authority acknowledges that its performance ratings are important to sustaining its capacity to maintain flexibility and authority. The Housing Authority intends to diligently manage its current program operations and continuously make efforts to be in full compliance with PHAS. The policies and procedures of this program are established so that the standards are set forth by PHAS are demonstrated and can be objectively reviewed by an auditor whose purpose is to evaluate performance.

**16-IV.B. PHAS SCORING [24 CFR 902.63; 24 CFR 902.67) and FR-5322-N-01]**

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each Housing Authority as high performing, standard, or troubled.

These designations can affect a Housing Authority in several ways:

- High-performing Housing Authorities are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR

902.71].

- Housing Authorities that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the Housing Authority's performance [24 CFR 902.73(a)].
- Housing Authorities with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a Memorandum of Agreement (MOA) with HUD to improve Housing Authority performance [24 CFR 902.75].
- Housing Authorities that fail to execute or meet Memorandum of Agreement (MOA) requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

Housing Authorities must post a notice of its final PHAS score and status in appropriate, conspicuous and accessible locations in its rental offices within two (2) weeks of receipt of its final score and status.

## **PART V: RECORD KEEPING**

### **16-V.A. OVERVIEW**

The Housing Authority must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the Housing Authority must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **16-V.B. RECORD RETENTION**

#### Housing Authority Procedure

During the term of each public housing tenancy, and for at least three (3) years thereafter, the Housing Authority will keep all documents related to a family's eligibility, tenancy, and termination.

### **16-V.C. RECORDS MANAGEMENT**

Housing Authorities must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

#### Housing Authority Procedure

All applicant and participant information will be kept in a secure location and access will be limited to authorized Housing Authority staff with EIV clearance.

Housing Authority staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

If the family requests copies of documents, the Housing Authority will make the copies for the family and assess a charge of \$.35 per copy.



## Privacy Act Requirements [24 CFR 5.212 and Form HUD-9886]

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

The Housing Authority's Procedure 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, 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 Asset Manager or designee.

The Housing 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. All files must be signed for when removed from the secured file storage area. The Housing Authority will not collect or maintain sensitive Personally Identifiable Information (PII) without proper authorization. Additionally, the Housing Authority will only collect PII that is needed for the purpose for which it is collected

- Personally Identifiable Information is defined in Office of Management and Budget (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 is PII 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.

Housing Authority 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 (reference Article 9).

The Housing Authority utilizes HUD's Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, 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 Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing 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 (only) to whom the record pertains. EIV data of minors may be provided to the minor's parent or guardian.

#### **Upfront Income Verification (UIV) Records**

Housing Authorities that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document,

*Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data.*

#### Housing Authority Procedure

Prior to utilizing HUD's EIV system, the Housing Authority has adopted and implemented EIV HUD required security.

#### **Criminal Records**

The Housing Authority may only disclose the criminal conviction records which the Housing Authority receives from a law enforcement agency to officers or employees of the Housing Authority, or to authorized representatives of the Housing Authority who have a job-related need to have access to the information [24 CFR 5.903(e)].

The Housing Authority must establish and implement a system of records management that ensures that any criminal record received by the Housing Authority from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the Housing Authority action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Housing Authority must establish and implement a system of records management that ensures that any sex offender registration information received by the Housing Authority from a state or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the Housing Authority action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a Housing Authority other than under 24 CFR 5.905.

#### **Medical/Disability Records**

Housing Authorities are not permitted to inquire about the nature or extent of a person's disability. The Housing Authority may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Authority receives a verification document that provides such information, the Housing Authority should not place this information in the tenant file. The Housing Authority may destroy the document.

## **PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]**

The Housing Authority has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing. The Housing Authority shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional. The Housing Authority shall also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

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 Lead Safe Housing Rule (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 elevated blood lead level (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.

#### **Key Definitions:**

**Assisted Units** means the 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** means the housing agency or the property owner, as indicated in the applicable section, is responsible for complying with applicable requirements.

**Elevated Blood-Lead Level (EBLL)** elevated blood lead level means 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 Investigation** means 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** means the actual 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** means a unit where a child with an elevated blood lead level resides.

**Multi-unit Property** means a 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** means 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 Investigation in the index unit and associated common areas is completed.

**Target Housing** means 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.

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 PHA, and under other subparts, the owner is responsible for certain activities, and the PHA, for others. Specifically:

- For public housing, the PHA is the designated party and is responsible for all the activities regarding EBLL response.

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.

### **Public Housing**

When a child under 6 is identified with an EBLL, the Housing Authority must take the following steps. (For a more detailed explanation, please refer to section 6.):

- **Initial notification of a confirmed case to HUD:** The Housing Authority must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.

- **Initial notification of a confirmed case to public health department, when necessary:** The PHA must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.
- **Verification of the case, when necessary:** If a PHA learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, the PHA must immediately verify the report with the health department or medical health care provider.
- **Environmental Investigation:** The PHA must conduct an environmental investigation of the child's unit and the common areas servicing that unit within 15 calendar days in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units, as described in section 9 below.
- **Control:** The PHA must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by 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 as described in section 9 below.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the Housing Authority must notify all residents of lead evaluation and hazard control activities.
- **Follow-up notification:** The Housing Authority 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 each activity.
- **Ongoing maintenance and reevaluation:** As already required by the LSHR in sections 35.1120(c) and 35.1355(a), after the work passes clearance, the PHA 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. As also already required by the LSHR in section 35.1355(b), the Housing Authority 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).

### **Responding to EBLLs, Environmental Investigations, and Lead Hazard Control**

#### **Verification:**

The first step the Housing Authority or owner, as applicable, based on the type of assistance, 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.

The Housing Authority can verify the report with the local 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 Housing Authority shall make at least 2 attempts to verify the information with the medical health care provider or health department. If the Housing Authority verification attempts fail, the Housing 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 Housing 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 Housing Authority or owner, as applicable, must provide:

- PHA code and name, if the Housing 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 Housing 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.

**Investigation:**

Next, the Housing Authority or owner, as applicable, based on the type of assistance, or the Housing 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. PHAs 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 Housing 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 Housing 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 PHA 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. (See section 35.125(c)(4)(iii).)

#### **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 as described in section 35.1340.

The party that does the hazard control work and the clearance examination depends on the assistance program:

In the public housing program, the Housing Authority is responsible for completing the hazard control work and 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 public housing program, the Housing Authority is responsible for notifying the HUD field office.

#### **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. 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 multiunit property can include multiple buildings, and all buildings are covered if they meet the definition of target housing.

#### **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 Housing 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.
- 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 Housing Authority does not have to perform the environmental investigation if the family is relocated within 15 calendar days.
- In this scenario, the Housing Authority may not know if the index unit contains lead-based paint hazards. Without test results, the Housing 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 Housing 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 public housing program, the PHA conducts the risk assessments.

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 the Housing 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:

- The Housing Authority is responsible for notifying the assisted residents.

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.

#### **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 Housing 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; and

- The Housing 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:

- The Housing Authority is responsible for providing the documentation to the HUD field office.

### **Monitoring and Enforcement**

HUD may request documentation of compliance with the LSHR at any time, for the HCV, PBV, and public housing programs.

### **Public Housing Program**

Compliance with the LSHR is included as part of the Capital Fund Program regulations at Part 905 Subpart H. PHAs annually certify compliance with new Capital Fund awards. PHAs that are not compliant with the LSHR may be subject to Sanctions described at Part 905-804, including limiting, withholding, reducing, or terminating Capital Fund or Operating Fund assistance.

PHAs that believe properties are exempt from the LSHR because leasing is done exclusively to elderly or persons with a disability can only qualify for this exemption if 1) the PHAs has a current, HUD-approved Designated Housing Plans, or 2) as described in the Quality Housing and Work Responsibility Act of 1998, the housing has been operating continuously as a mixed housing designated for both elderly and disabled residents. Evidence of the second option must be made available to HUD upon request. However, the Fair Housing Act prohibits PHA properties, including those designated for elderly and/or disabled occupancy, from excluding eligible families with children. Therefore, as described in section 3, regardless of the Designated Housing Plan, if a child under six resides or is expected to reside in the dwelling unit, that unit and common areas serving the dwelling unit lose their LSHR exemption.

HUD's Real Estate Assessment Center (REAC) inspectors will continue to request to view lead evaluation reports, i.e., reports of lead-based paint inspections, lead risk assessments, environmental investigations, clearance examinations, and Lead Disclosure Rule forms as part of regular physical assessments of public housing developments. PHAs should ensure that all relevant lead paint evaluation records are available at the property for the inspector.

## **Chapter 17 SMOKE-FREE POLICY**

### **17-I.A. INTRODUCTION**

To ensure quality of air and the safety of all public housing residents, the Authority has declared that all public housing communities have a Smoke-Free Policy. The Rule is intended to improve indoor air quality, benefit the health of public housing residents and PHA staff, reduce the risk of fires, and lower overall maintenance costs.

In accordance with Federal Register 87430, 24 CFR 903.7(b)(3), prohibited tobacco products are defined as items that involve the ignition and burning of tobacco leaves, (including, but not limited to, cigarettes, pipes, cigars, Kretek, ENDS e-cigarettes, vaping, and water pipe tobacco such as hookahs,) is prohibited in all the Authority public housing communities.

This includes all indoor areas including but not limited to residential units and interior common areas (including, but not limited to: hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures); and outdoor areas within twenty-five (25) feet from public housing and administrative office buildings (collectively, "restricted areas") and outdoor areas (apartments, entry ways, walkways, grassed areas, picnic areas, parking lots, and private vehicles parked on Housing Authority property). The Rule does not prohibit smoking by residents; rather, it requires that residents who smoke do so at least 25 feet away from the buildings.

The term "smoking" is defined as inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or other similar tobacco products in any manner or in any forms.

The Smoke-Free Policy applies to all visitors, residents, contractors, volunteers, and vendors. Tenants and members of the household shall be responsible to enforce this Smoke-Free Policy as to their guests, invitees, and visitors to their residential units.

### **17-I.B. RESPONSIBILITIES**

It is the responsibility of the Authority staff to educate residents and visitors about the Smoke-Free policy. Signage and printed material may be available for visitors at the management office of each development.

It is the responsibility of the resident and members of the household that for the health and safety of the Authority employees and their representatives, no one shall have any type of tobacco or related product burning at such time as any employee or representative of the Authority enters and remains in the apartment or unit. If anyone refuses to put out the burning tobacco or related product prior to the employee or representative entering the apartment, or if the resident lights a tobacco or related product while an employee or representative remains in the apartment, the employee or representative may vacate the apartment immediately and may not return until such time as there is no longer any tobacco or related product burning. This may result in a delay of services and all violations will be reported to the site management office.

All public housing residents and their guests, invitees, and visitors are expected to:

1. Comply with the Residential Tenancy Lease Agreement and House Rules;

2. Not smoke in any resident unit, Authority Offices, and within twenty-five (25) feet of any doors and windows at said premises;
3. Not cause or permit a nuisance;
4. Not interfere, or cause or permit interference with, the reasonable peace, comfort or privacy of others;
5. Be responsible for the behavior, conduct of their occupants and/or visitors to their unit, and ensure their compliance with the Authority designated Smoke-Free properties and common areas.

#### **17-I.C. VIOLATIONS**

A violation of the Smoke-Free policy will be considered a material violation of the residential lease. The Authority will utilize the following process to address the violations of the Smoke-Free policy:

1<sup>st</sup> Violation – Verbal Warning. The Authority may provide smoking cessation materials.

2<sup>nd</sup> Violation – A written letter of warning will be given and the Authority may provide smoking cessation materials.

3<sup>rd</sup> Violation –A final written violation letter will be served to the resident but resident will be given an option to remedy.

4<sup>th</sup> Violation – A thirty (30) day lease termination notice.

#### **17-I.D. CESSATION RESOURCES**

All residents may be offered information regarding cessation programs and provided with access tools to assist them in quitting tobacco use, if they so choose.

## Chapter 18

### RESIDENTIAL RELOCATION AND RE-HOUSING PROCEDURE

#### 18-1.A. INTRODUCTION

Since 1942, the Housing Authority has and will continue to manage large-scale capital improvement projects in its public housing program. The Authority's extensive experience with these programs indicated that capital improvements require, in some cases, the relocation of residents from the units they occupy.

Public housing residents will generally be required to relocate when their development has received capital improvement funding for unit reconfiguration, major systems upgrading, substantial modernization, demolition, disposition, re-development or unit rehabilitation where a contractor's insurance prohibits on-going occupancy.

Residential relocation will, in all cases, require Housing Authority guarantees for permanent re-housing into units owned by the Housing Authority for residents who desire such assistance. Residential relocation may also require the Housing Authority guarantees for temporary relocation into units owned by the Housing Authority prior to assignments of permanent re-housing. In any case, relocation and permanent re-housing may or may not be to a unit located at the development where capital improvements are planned.

The Procedure herein, called the Housing Authority Residential Relocation and Re-Housing Procedure (RRP), establishes fair, objective, non-arbitrary and non-discriminatory policies for the temporary relocation and permanent re-housing of its residents due to the requirements of planned capital improvement programs.

The RRP has been established to maximize administrative efficiency, residential stability, applicant accessibility, equality of treatment, and overall fairness and objectivity throughout the course of planned construction.

The RRP has been established to fulfill applicable state and federal regulations, consistent with sound management practices and Procedure objectives.

The goals and objectives of the RRP are as follows:

1. To facilitate efficient construction through the temporary relocation of residents from units which require reconfiguration, major systems upgrading, or substantial modernization, demolition, re-development or disposition;
2. To guarantee permanent re-housing into units owned by the Housing Authority for all residents whose relocation is required due to unit reconfiguration, major systems upgrading, or substantial modernization, demolition, re-development, unit rehabilitation or disposition;
3. To assist residents with financial costs associated with all temporary and permanent relocation;
4. To minimize displacement to the greatest extent possible;
5. To develop a uniform set of standards for all capital improvement projects which

require relocation, regardless of location, race, color, national origin (called "protected classes", ancestry, age, sex, marital status, disability, presence of children, religion, sexual orientation, gender identity/expression, source of income, or military service of the resident population, familial status or funding source;

6. To provide fair, equitable, non-arbitrary, and non-discriminatory standards for the temporary and permanent relocation of residents to units owned by the Housing Authority;
7. To provide continued access by applicants to all developments owned by the Housing Authority, notwithstanding the existence of planned capital improvement programs which require on-site resident relocation; and
8. To provide appropriate accommodations for persons with disabilities.
9. Nothing in this Procedure shall nullify the rights of local, state or federal regulatory agencies to require changes in development-specific modernization, demolition, re-development, or disposition programs otherwise required by this Procedure in order to make them consistent with available funding or applicable statutes or regulations in effect at that time.

The Housing Authority plans to demolish, re-develop, or dispose of public housing units. The plans are subject to HUD approval in accordance with applicable state and federal laws or court orders.

The provisions of the Procedure shall apply to all Housing Authority owned public housing developments.

#### **18-I.B. NON-DISCRIMINATION**

The Housing Authority acts without discrimination on the basis of race, color, national origin (called "protected classes"), ancestry, age, sex, marital status, disability, presence of children, religion, sexual orientation, gender identity/expression, source of income, familial status, or military service in all matters that pertain to the Authority's Residential Relocation and Re- Housing Procedure.

The Housing Authority shall take reasonable steps to safely house all residents relocated under this Procedure.

The Housing Authority may negotiate a different Relocation and Re-Housing Procedure with a local tenant organization in a situation of substantial rehabilitation, demolition, re-development, or disposition.

#### **18-I.C. NOTICE**

The Housing Authority shall provide a Notice of Relocation Policies, Benefits, and Requirements to all residents of a development whose relocation is required as a result of a capital improvement program. Such information shall be provided to residents as soon as the need for relocation due to a planned capital improvement program is determined. Notice shall be provided by personal service, and sent by Certified and Registered First-Class Mail, Return Receipt Requested.

Relocation notices shall be provided to residents in the languages identified by the Housing Authority as spoken by the residents of the development in accordance with the Language

Access Plan (LAP).

Residents who wish to temporarily or permanently relocate off-site shall notify the Housing Authority within twenty (20) days of receipt of their Notice of Relocation Policies, Benefits and Requirements.

The Housing Authority shall conduct at least one (1) on-site Relocation Briefing Session and one (1) Neighborhood Orientation Session for residents of the development undergoing planned re- development prior to the time when off-site relocation requests are due to the Housing Authority.

All residents who are required to temporarily or permanently relocate will be required to sign and return the appropriate relocation/re-housing agreements and all Authority administrative documents to the Authority no less than one hundred twenty (120) days prior to the anticipated date of their initial relocation.

#### **18-I.D. WAITING LISTS**

The Housing Authority may be required to reduce or curtail temporarily the number of applicants' offers of available units at developments with approved modernization or development plans in order to accommodate the need for on-site residential relocation.

The Housing Authority shall make a minimum of twenty percent (20%) of all vacancies at developments with approved modernization or development plans requiring resident relocation available for offers to applicants from the Housing Authority waiting list. The other eighty percent (80%) of all vacancies will be assigned according to the following priorities:

1. Temporary relocations;
2. Residents from any subsequent phase (in order of earliest date of tenancy); and
3. Authority agency wide or site-specific waiting list.

In developments with approved capital improvement and/or redevelopment modernization plans, the number of households requiring relocation may be so numerous and the supply of projected or available appropriate vacant units so few that the Housing Authority will be compelled to close the site-specific waiting list completely; for example, no new admissions from the site- specific waiting list. However, such closure shall be limited to a period of one (1) year from the date the closure is announced.

At the end of the first year, the Housing Authority will determine whether it is necessary to continue the closure for another year. At the conclusion of subsequent years, a similar determination of the feasibility will be made by the Housing Authority. The total number of available units withheld from applicant offers at the developments undergoing planned redevelopment shall not be greater than the number of units necessary to accommodate relocation, by construction phase, bedroom size and unit type.

#### **18-I.E. ELIGIBILITY**

Only qualified resident household members who are listed on the Tenant Lease at the time approval of funding for modernization or re-development is announced shall be considered eligible for temporary and permanent relocation assistance Only head of household, co-head or spouse may be assigned temporary or permanent units as a result of planned

capital improvements

**18-I.F. DETERMINATION OF THE APPROPRIATE SIZE AND TYPE OF UNIT**

A household shall only be guaranteed a unit of a size and type which corresponds to the information on the Tenant Lease at the time when the capital improvement funds, which require relocation, are awarded to the Housing Authority; provided that the Housing Authority shall make efforts to reasonably accommodate households in which one or more members have a disability.

Upon the Housing Authority's notification of funding award<sup>1</sup>, the right of the resident household to make additions or deletions to the household composition shall be suspended, except that deletions and additions by birth, death, marriage and operation of law (adoption, guardianship, court-ordered or parental authorization in writing of custody of a minor) with the exclusion of foster children, will be accommodated to the best of the Housing Authority's ability to ensure that all tenant households are appropriately housed. All information on the household's Tenant Resident Dwelling Lease Agreement will be "frozen" in order to determine household unit size for temporary or permanent relocation in the modernized development.

The Housing Authority shall attempt to accommodate changes in the unit size authorized above or unit type for households requesting on-site relocation by offering on-site temporary and permanent units of appropriate sizes and types, if available.

On-site units of appropriate size and type may not be available for households who have requested on-site relocation, if their unit size or unit type changes during the course of the planned construction program.

On-site temporary units and permanent units of appropriate size and type may also not be available for households who have requested on-site relocation, if state or federal funding or construction program approvals do not provide for a sufficient unit mix to accommodate unit size or unit type needs in such situations, the Housing Authority shall offer the following relocation options:

1. Temporary and/or permanent relocation into an on-site unit of the most appropriate size and type available at the time relocation is required, provided that the head of household, co-head or spouse signs a waiver of the required the Housing Authority Occupancy Standards; or
2. Temporary and/or permanent relocation into an off-site unit owned by the Housing Authority which meets their actual unit size or unit type needs.

Funding award is based on the oldest funding source used in the construction phase.

Residents who select this option shall be granted administrative transfer status. Such assignments shall be made according to the provisions of the Authority's Tenant Selection and Transfer Procedure (or successor Procedure) in ACOP.

**18-I.G. DETERMINATION OF PERMANENT UNIT MIX**

The Housing Authority shall determine the "post construction" unit mix of a development with a planned modernization or re-development program by considering several factors including: existing household composition, household composition of the Housing Authority site-specific waiting list, design limitations and applicable state and federal regulations.



## **18-I.H. UNIT ASSIGNMENTS**

Temporary Relocations: In many cases, capital improvement programs will require the temporary relocation of residents prior to permanent re-housing. Temporary relocations will be into units owned by the Housing Authority. Units will be in the development where the resident resides (on-site) or at another location (off-site), according to the provisions below:

### Temporary On-Site Relocation:

The Housing Authority shall temporarily relocate into on-site units all residents who do not request temporary off-site relocation, provided units of the appropriate size and type are available on-site. The Housing Authority reserves the right to temporarily relocate any and all residents off-site where habitable units of appropriate size and type do not exist on-site.

The Housing Authority shall assign available units of appropriate size (or most appropriate size, as allowed by this Procedure) and type to all residents who require on-site temporary relocation.

The Housing Authority shall attempt to minimize the number of temporary relocations per household, consistent with construction phasing, required scope of work, the number of residents requiring on-site relocation, and the number of available units of appropriate size and type when relocation occurs.

In some instances, because of the nature of the rehabilitation, emergency work, and/or improvement work to be performed in the resident's unit which, when completed, will allow the resident to return to his/her rehabilitated unit within a relatively short time (within two (2) months), it may be appropriate for the Housing Authority to relocate the resident to a "hotel" unit. A "hotel" unit is a vacant Housing Authority unit usually on-site which will accommodate the resident's household on a very temporary basis for no more than two (2) months. While the Housing Authority will make every effort to provide a unit of appropriate size to accommodate the entire household at their present development, it may not always be able to do so. The Housing Authority, however, will not relocate a household to a unit that results in severe overcrowding or lacks an accommodation reasonably required by a person with a disability.

### Temporary Off-Site Relocations:

The Housing Authority shall temporarily relocate the residents into off-site units who request temporary off-site relocation.

The Housing Authority shall grant Administrative Transfer Status to residents who request off-site temporary relocation and assign them to an available public housing unit of appropriate size and type. Assignments of public housing units shall be done in accordance with the Housing Authority's Tenant Selection and Transfer Procedure (or successor Procedure) in the ACOP in effect at that time.

Resident households "in good standing" (against whom no eviction action has begun, including the service of a Notice to Terminate the Lease) who are temporarily relocated into units owned by the Housing Authority shall be required to sign an appropriate temporary relocation agreement.

Residents against whom the Authority has a pending lease termination or eviction, shall

only be allowed to sign a "Use and Occupancy Agreement" for the unit.

Permanent Relocation:

In all cases, residents whose relocation is required due to a planned capital improvement program shall be guaranteed permanent re-housing in a unit owned by the Housing Authority. Permanent re-housing will be in the development where the resident resided (on-site) or at another location (off-site), according to the provisions below:

Permanent On-Site Relocations:

It is the Housing Authority's goal to permanently relocate into on-site units all residents who do not request permanent off-site relocation.

The Housing Authority shall assign available units of appropriate size and type (or most appropriate size, as allowed by this Procedure) to all residents who request on-site permanent relocation in accordance with this RRP.

Permanent Off-Site Relocations:

The Housing Authority shall permanently relocate into off-site units those residents who request permanent off-site relocation.

Residents who are permanently relocated off-site shall waive all rights to relocation back to the development from which they have been relocated.

The Housing Authority shall grant Administrative Transfer Status to residents who request off-site permanent relocation and assign them to an available public housing unit of appropriate size and type. Assignments of public housing units shall be done in accordance with the provisions of the Authority's Tenant Selection and Transfer Procedure (or successor Procedure) in the ACOP in effect at that time.

Resident households "in good standing" who are assigned a permanent on-site or off-site unit shall be required to sign the standards lease offered by the applicable program.

Residents against whom the Housing Authority has a pending eviction action or lease termination shall only be allowed to sign a "Use and Occupancy Agreement" for the permanent assignment of housing until the action is resolved.

Residents who are assigned temporary and permanent units as a result of relocation shall have up to five (5) days after receiving a housing offer to accept the unit.

Residents who are given an on-site assignment of permanent re-housing may be required to participate in an Orientation Session for the newly-constructed development prior to the date they must move into their new unit.

Residents who are given an off-site assignment of temporary or permanent housing shall be informed about the availability of Neighborhood Orientation Sessions. Residents who are assigned units as a result of temporary or permanent relocation assistance shall have up to forty-five (45) calendar days in which to move into the assigned unit.

To the maximum extent possible, consistent with the requirements of the planned reconstruction program, the Housing Authority shall avoid the relocation of residents during the month of December.

The Housing Authority shall only temporarily or permanently relocate resident households into buildings, which are otherwise vacant, if the Housing Authority certifies that such relocation will not endanger the health and safety of the household.

The Housing Authority will consider the adverse effect on a household of increased rental obligation and/or non-citizen status in the relocation decision.

**18-I.I. REFUSALS OF OFFERS OF HOUSING**

Residents who are required to temporarily and/or permanently relocate for reconstruction may only reject assigned units based upon "good cause".

Refusal to sign applicable relocation/re-housing agreements shall constitute rejection without good cause.

Failure to accept an assignment of temporary or permanent housing within five (5) days of the relocation officer shall constitute rejection without good cause.

Failure to move into a temporary and/or permanent unit within forty-five (45) calendar days of an acceptance of an assignment shall constitute rejection without good cause.

The Housing Authority shall initiate eviction action against all residents who reject without good cause a temporary or permanent relocation assignment.

If a resident is unable, due to a physical or mental disability, to accept an offer of housing then the resident shall so inform the Asset Manager in writing and submit a Request for Reasonable Accommodation pursuant to the Housing Authority's Reasonable Accommodation Procedure in the ACOP. (See Chapter 2, Fair Housing and Equal Opportunity, Part II, Policies Related to Persons with Disabilities for more information on the Reasonable Accommodation Procedure).

**18-I.J. RELOCATION PAYMENTS**

The Authority shall pay the moving costs as required by law of a resident who must move either temporarily and/or permanently in one of the following three ways:

1. The Housing Authority will solicit proposals from moving companies and will assign staff to coordinate moves; or
2. If there are residents who need or want to move themselves, the Housing Authority will reimburse the resident for actual moving and related expenses provided appropriate documentation is presented and approved by the Housing Authority. Under no circumstances will the Housing Authority reimburse a resident an amount higher than what the Housing Authority would pay to move the resident; or
3. The resident household may elect to receive a fixed moving allowance based on room size in accordance with federal regulations.

Residents who must relocate shall choose the method by which they shall move. If the resident does not elect to have the Housing Authority perform the move, the resident shall have the option to obtain reimbursement from the Housing Authority for actual, reasonable moving and related expenses with the appropriate documentation (subject to #2 above).

The Housing Authority shall provide to the resident an advance payment of up to fifty

percent (50%) of the Housing Authority's fixed amount of scheduled moving costs for the appropriate room size for hardship cases who wish to receive reimbursement for actual costs.

The Housing Authority shall not provide relocation payments to cover increased rental payments for residents who choose to temporarily or permanently relocate off-site.

Households, which are not required to relocate, shall not be eligible for relocation payments. The Housing Authority shall terminate all further relocation payments to residents who reject without good cause a temporary or permanent relocation assignment.

**18-I.K. CONTINUED OCCUPANCY**

Nothing in this Procedure shall supersede any of the Housing Authority's established policies in the (ACOP) or successor Procedure in effect at the time of the relocation.

Qualified members of temporarily or permanently relocated households (except live-in aides) shall have full rights to apply for head of household, co-head or spouse tenancy, if eligible, in the event that the head of household, co-head or spouse is unable to permanently remain in the unit due to death, incapacity, or reasons of health. Remaining qualified member shall be eligible for relocation assistance otherwise available to the prior head of household, co-head or spouse.

Residents who are evicted from a Housing Authority owned temporary unit shall forfeit all rights to further temporary or permanent relocation assistance, including the provision of relocation payments.

**18-I.L. GRIEVANCES AND APPEALS**

All residents who have received a notice of RRP, benefits, and requirements or who have been required to temporarily or permanently relocate under this Procedure shall have the same grievance and appeal rights as all other residents regarding Housing Authority action or inaction. (See Chapter 14 Grievances and Appeals for more information on the Grievances and Appeals process).

**18-I.M. COMPLAINTS OF DISCRIMINATION**

All residents who have received a notice of relocation policies, benefits, and requirements or who have been required to relocate under this Procedure shall have the same rights to file a complaint alleging discrimination as all other residents of the Housing Authority in accordance with federal law.

**18-I.N. WAIVER**

Any provision of this Procedure not required by law may be waived when the viability of the planned capital improvement program would suffer substantial hardship through its administration or when the program has experienced unanticipated circumstances, which merit resolution.

**18-I.O. AMENDMENTS**

The Housing Authority will periodically review and evaluate the effectiveness of this Procedure as it applies to the efficient management of construction, the fair and equitable treatment of residents and applicants, and conformity with applicable state and/or federal laws and regulations.

The Housing Authority may amend the RRP to improve its efficiency, to improve construction scheduling, to provide for greater fairness and equity towards residents and applicants, and to ensure full compliance with applicable state and/or federal laws and regulations.

All amendments to the RRP shall be submitted for review and comment to tenant organizations according to the provisions of applicable Housing Authority policies governing resident participation in the affairs of the Housing Authority.

Development-specific amendments to the RRP shall be submitted for review and comment to tenant organizations according to the provisions of applicable Housing Authority policies governing resident participation in the affairs of the Housing Authority.

All amendments to the RRP shall be submitted for appropriate agency approval as required by state and/or federal law or regulation.

#### **18-I.P. DEFINITIONS**

**Admissions and Continued Occupancy Procedure:** The Admissions and Continued Occupancy Procedure (ACOP) is the Housing Authority's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and U.S. Department of Housing and Urban Development (HUD) requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the Housing Authority's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated Annual Contributions Contract and all HUD-approved applications for program funding. The Housing Authority is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

**Administrative Transfer Status:** Administrative Transfer Status is the status assigned to all residents who request on-site or off-site relocation assistance. The priority status given Administrative Transfers shall be done according to the provisions of the ACOP (or successor Procedure) in effect at the time.

**Good Cause:** A set of standards used by the Housing Authority to determine the need for special consideration in order to avoid a verifiable hardship when offering housing accommodations or when determining whether a rejection of an offer of an otherwise appropriate unit is justifiable.

The basis for the assignment or rejection must be clearly documented (as described below) and cannot be related to race, color, sex, sexual orientation, religion, or national origin. Examples of situations warranting special consideration in an assignment or in the rejection of a unit for good cause are:

1. The temporary hospitalization or on-duty military assignment of the head of household, co-head or spouse, or the household member necessary for the care of the head of household, co-head or spouse listed on the tenant lease.

Acceptable documentation

- A statement on letterhead from a member of the professional staff at the hospital or health care facility (or clinic) indicating the name of the individual (must be the head of household, co-head or spouse or the household member necessary for the care of the head of household, co-head or spouse;
  - The date of admission; and
  - The date of anticipated discharge (if known) or an estimate of the anticipated length of confinement or a statement from the individual's Commanding Officer indicating the date the assignment began and anticipated length of active duty (if known).
2. The inaccessibility of public transportation to the night-time employment of head of household, co-head or spouse.

Acceptable documentation

- A statement from the employer, on company letterhead, indicating the specific hours of employment;
  - The date employment commenced;
  - Whether it is a permanent shift assignment; and
  - Whether the company provides transportation benefits.
3. The aggravation of a serious medically determinable impairment.

Acceptable documentation

- A statement from a health care provider, on letterhead, (physician, physician's assistant, or psychologist) which establishes the precise reasons for a particular type of unit (or unit location) is needed, or why acceptance of the unit already offered would aggravate a serious medically determinable impairment or condition.
  - The statement should not provide information regarding the nature of the condition, but should contain sufficient detail to establish why a particular type of unit (or unit location) is needed or why acceptance of the unit offered would aggravate the condition.
4. Inaccessibility to medically supportive institutions for elderly or disabled household member(s).

Acceptable documentation

- A statement from a member of the professional staff at a hospital or health care facility (clinic), on company letterhead, which certifies that the elderly or disabled household member(s) carries a diagnosis (the nature of the condition should not be revealed) which requires on-going regular or emergency treatment at the facility;
- The date when the individuals(s) began treatment at the facility;
- The frequency of treatment;

- The anticipated length of treatment; and
- Whether similar or identical care could be provided at other facilities in Merced County.

**Hardship Cases:** A hardship case involves a resident who has been deemed by the Housing Authority to be unable to afford the actual, reasonable costs of relocation due to limited financial means. Hardship cases shall be eligible for an advance payment of fifty percent (50%) of the fixed schedule of reimbursement for their actual, reasonable moving costs.

**Head of Household, co-head or spouse:** A head of household is a qualified member of a resident household who has primary responsibility for the occupancy of a dwelling unit. More than one qualified member may be a head of household, such as a co-head or spouse.

**Neighborhood Orientation Session:** A Neighborhood Orientation Session is available for all applicants and transfer applicants who wish to be oriented to any Housing Authority development prior to receiving or accepting an offer or assignment of housing.

This program acquaints applicants and transfer applicants with the various services available in Housing Authority developments and their surrounding neighborhoods, including public transportation services, social service agencies, health care facilities, playgrounds, schools, recreational facilities, stores, and churches.

**Occupancy Standards:** The Housing Authority will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than spouses, and children five years of age and under) will not be required to share a bedroom.
- Persons of different generations will not be required to share a bedroom.
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a one bedroom.
- Foster children will be included in determining unit size only if they will be in the unit for more than twelve (12) months.

The Housing Authority will reference the following standards in determining the appropriate unit bedroom size for a family:

Bedroom Size	Minimum Number of Persons of Number	Maximum Number of Persons of Persons
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

**Qualified Resident Household Member:** Qualified resident household members are those persons who are on the tenant lease according to the (ACOP) in effect at the time when a need for relocation is determined.

**Temporarily or Permanently Absent Household Member:** Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

An individual who is, or is expected to be, absent from the public housing unit for an accumulation of ninety (90) days is considered temporarily absent and continues to be considered a family member. An individual who is, or is expected to be, absent from the public housing unit for more than an accumulation of ninety (90) days is permanently absent and no longer a family member. Exceptions to this general Procedure are discussed below.

**Absent Students:** When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

**Absences Due to Placement in Foster Care:** Children temporarily absent from the home due to placement in foster care shall be considered members of the family. If a child has been placed in foster care, the Housing Authority will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Co-head:** An employed head, spouse, or co-head absent from



the unit for more than ninety (90) consecutive days due to employment will continue to be considered a family member.

*Individuals Confined for Medical Reasons:* An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, the Housing Authority will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

***Unit of Appropriate Size:*** A unit of appropriate size is a dwelling unit whose number of bedrooms is sufficient to satisfy the requirements of the Housing Authority's Occupancy Standards for all qualified members of the household.

***Unit of Most Appropriate Size:*** A unit of most appropriate size is a dwelling unit that is the closest approximation to the unit size needs for the qualified members of the household in the development in which the household lives.

Units of most appropriate size may only be used for unit size determination for the relocation of residents who have requested only on-site temporary or permanent units, if units of appropriate size are not available and the Head of Household (co-head or spouse) signs a waiver of the Authority's Occupancy Standards.

## Chapter 19

### VIOLENCE AGAINST WOMEN ACT (VAWA)

#### Introduction

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 Housing 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 Housing Authority should exercise the same documentation and confidentiality procedures in assisting a family in this situation.

Un-emancipated minors would not be eligible to sign leases under HUD programs. The Housing 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 Housing 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 Housing 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 Housing 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:

1. Inform the Housing Authority that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. Provide enough information for the Housing Authority to make a determination regarding the adverse factor they are claiming was a direct result of domestic violence, dating violence, sexual assault, or stalking.

After the Housing Authority receives this information, the Housing 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 Housing Authority may request additional supporting documentation from the applicant or tenant. However, any request for additional documentation must:

- a. Be in accordance with the Housing Authority policies or practices,
- b. Not require evidence of the domestic violence, dating violence, sexual assault, or stalking other than as specified in 24 CFR 5.2007., and
- c. 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 Housing

Authority is not independently required to identify whether adverse factors are the direct result of domestic violence, dating violence, sexual assault, or stalking. The Housing 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 Housing Authority believes any information is not clear, it should speak to the victim to try and clarify the information. After the Housing Authority has received the information from the tenant or applicant, if necessary, clarified this information with the tenant or applicant, the Housing 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 Housing Authority must notify the applicant or tenant if the Housing 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 Housing 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 Housing 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.

#### **I.B. 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:

- The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
  - The term *affiliated individual* means, with respect to a person:
    - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
    - Any other individual, tenant or lawful occupant living in the household of that individual.
  - The term *sexual assault* means:
    - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
  - The term *stalking* means 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.*

- VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

### **I.C. NOTIFICATION**

The Housing 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 Housing Authority's policies. Therefore, if the Housing Authority makes a determination to deny admission to an applicant family, the Housing Authority will include in its notice of denial:

- A statement of the protection against denial provided by VAWA.
- A description of Housing Authority confidentiality requirements.
- A request that an applicant wishing to claim this protection submit to the Housing Authority documentation meeting the specifications below with her or his request for an informal hearing.

### **I.D. VAWA PROTECTIONS (24 CFR 5.2005)**

#### **Notification of Occupancy Rights under VAWA and Certification Form**

The Housing 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 public housing admission and occupancy requirements under 24 CFR part 960, 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:
  - The 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.

### 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
  - A.) 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



- o B.) 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:
  - o Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and
  - o 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:
  - o 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;

- o 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
  - o 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.

**Housing Authority Procedure**

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the Housing Authority will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or a similar dwelling type. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the Housing Authority will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers are mandatory for the tenant.

To request an emergency transfer under VAWA, the tenant shall notify the Housing Authority management office and submit a written request for a transfer (Form HUD-5383). The Housing Authority will provide reasonable accommodations to this procedure for individuals with disabilities. The tenant’s written request for an emergency transfer should include either:

- A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the Housing Authority program; OR
- A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant’s request for an emergency transfer.

**Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact:

- The National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call:

- The Rape, Abuse & Incest National Network’s National Sexual Assault Hotline at 800-656-HOPE (1-800-656-4673), or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may:

- Visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

### **Confidentiality**

The Housing Authority will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the Housing Authority written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant.

### **Emergency Transfer Timing and Availability**

The Housing Authority cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Housing Authority will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The Housing Authority may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the Housing Authority has no safe and available units for which a tenant who needs an emergency is eligible, the Housing Authority will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the Housing Authority will also assist tenant in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

### **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 business 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 Housing Authority is not required to ask for documentation when an individual presents a claim for VAWA protections; the Housing Authority may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. The Housing Authority will document in a confidential manner, the individual's verbal statement or other corroborating evidence.

**I.F. TIME FRAME FOR SUBMITTING DOCUMENTATION**

If an applicant or tenant does not provide the documentation requested within 14 business 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-business-day deadline. During the 14-business 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 Housing 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 Housing 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 program 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.

**CONFLICTING DOCUMENTATION [24 CFR 5.2007(e)]**

In cases where the Housing 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 Housing 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 Housing 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 Housing 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.

**DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION [24 CFR 5.2007(d)]**

The Housing Authority has the discretion to provide benefits to an individual based solely on the individual’s statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

If the Housing Authority accepts an individual’s statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, the Housing 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 Housing 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 Housing Authority may allow, the Housing Authority may deny relief for protection under VAWA.

**I.G. 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

**Violence 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 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.

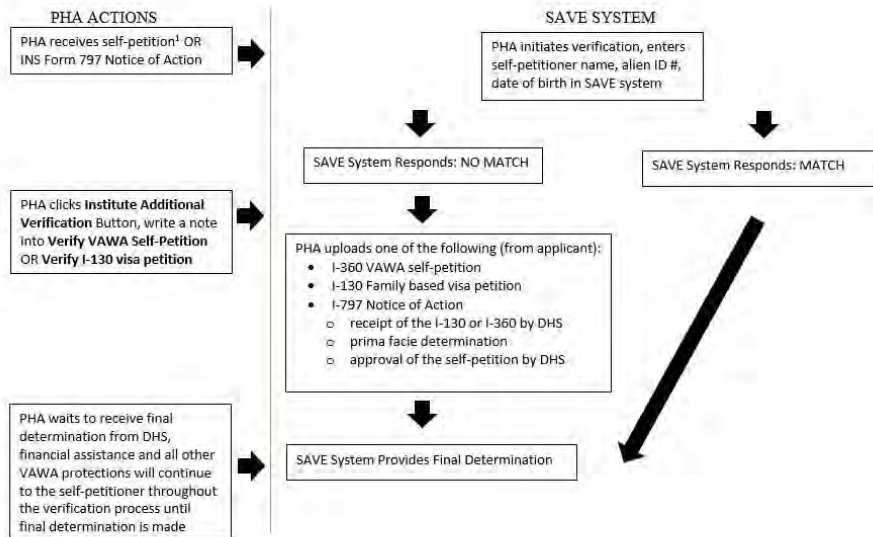
**Procedure.** When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:

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).



**Appendix I  
ACRONYMS**

- AAF – Annual Adjustment Factor
- ACC – Annual Contributions Contract
- ACOP – Admissions and Continued Occupancy Procedure
- ADA – Americans with Disabilities Act of 1990
- AIDS - Acquired Immune Deficiency Syndrome
- AMI – Area Median Income
- CDBG - Community Development Block Grant
- CFR – Code of Federal Regulations
- COP - Contract of Participation
- CPI – Consumer Price Index
- CSSR – Community Service and Self-Sufficiency Requirement
- DMV – Department of Motor Vehicles
- EID - Earned Income Disallowance
- EIR - Established Income Range
- EITC - Earned Income Tax Credit
- EIV - Enterprise Income Verification
- ELI – Extremely Low Income
- FAQ – Frequently Asked Questions
- FAS – Freely Assisted States
- FDIC – Federal Deposit of Insurance Corporation
- FHA – Fair Housing Act
- FHA – Federal Housing Administration
- FHEO – Fair Housing and Equal Opportunity
- FICA – Federal Insurance Contributions Act

FMR – Fair Market Rent

FSS – Family Self Sufficiency

FTS - Full-time Student

FR – Federal Register

FYE – Fiscal Year End

GAO – Government Accounting Office

GR – Gross Rent

HCDA – Housing Community Development Act

HCVP – Housing Choice Voucher Program

HOP – Homeownership Option Program

HUD – U.S. Department of Housing and Urban Development

HURRA – Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 194 HUD regulation changes to definition income, allowance, rent calculation

IPA – Independent Public Accountant

IRA – Individual Retirement Account

IRS - Internal Revenue Service

ITSP – Individual Training and Services Plan

JPEID – Jobs Plus Earned Income Disregard

JPPP – Job Plus Pilot Program

LAP – Language Access Plan

LEP - Limited English Proficiency

LI – Low Income

LIHTC – Low Income Housing Tax Credit

MASS – Management Operations Indicator

MOA – Memorandum of Agreement

MOU – Memorandum of Understanding

MOV – Methods of Verification

MSA – Metropolitan Statistical Area established by the United States Census Bureau

NAHASDA – Native American Housing Assistance and Self-Determination Act

OIG – Office of the Inspector General

OMB – Office of Management and Budget

PASS - Plan to Attain Self-Sufficiency

PCC – Program Coordinating Committee

PHA – Public Housing Authority

PHAS - Public Housing Assessment System

PIH – Public and Indian Housing

PII – Personally Identifiable Information

PMSA – A Primary Metropolitan Statistical Area established by the United States Census Bureau

PRE - Purchase Resale Entity

QC – Quality Control

QHWRA - Quality Housing and Work Responsibility Act of 1998

RAB – Resident Advisory Board

RAD – Rental Assistance Demonstration

REAC – Real Estate Assessment Center

RFP – Request for Proposal

RRP – Residential Relocation and Re-Housing Procedure S32

HOP – Section 32 Homeownership Option Program

SAVE – Systematic Alien Verification for Entitlements

SSA - Social Security Administration

SSI – Supplemental Security Income

SSN – Social Security Number

SWICA - State Wage Information Collection Agency

TANF - Temporary Assistance for Needy Families

TASS - Tenant Assessment Subsystem

TR – Tenant Rent

TSAP - Tenant Selection and Assignment Plan

TTP - Total Tenant Payment

TDD - Telecommunications Device for the Deaf

TTY - TeleType

UA – Utility Allowance

UFAS - Uniform Federal Accessibility Standards

UIV - Up-front Income Verification

UPCS - Uniform Physical Condition Standards

URP –Utility Reimbursement Payment

USC – United States Code

USCIS - U.S. Citizenship and Immigration Services formerly INS

VAWA – Violence Against Women Reauthorization Act of 2013

VG - Verification Guidance

VLI – Very Low Income

WIC – Women and Infant Children

## **GLOSSARY OF TERMS IN SUBSIDIZED HOUSING**

### **1937 ACT**

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

### **ACCESSIBLE DWELLING UNITS**

When used with respect to the design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, or altered, can be approached, entered, and used by individuals with a physical disability.

A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 & 40, (the Uniform Federal Accessibility Standards)

### **ACCESSIBLE ROUTE**

For persons with a mobility impairment, a continuous, unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards (UFAS). For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.

### **ADAPTABILITY**

Ability to change certain elements in a dwelling unit to accommodate the needs of disabled and non-disabled persons; or ability to meet the needs of persons with different types and degrees of disability.

### **ADMISSIONS AND CONTINUED OCCUPANCY PROCEDURE (ACOP)**

The Housing Authority must create written policies that are consistent with HUD regulations. Among these policies is the Housing Authority's Admissions and Continued Occupancy Procedure (ACOP). The ACOP must be approved by the Board of Commissioners of the Housing Authority.

### **ADA**

Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

### **ADJUSTED INCOME**

Annual income, less allowable HUD deductions.

### **ADMISSION**

The date the family executes the Residential Dwelling Lease Agreement. This is the point when the family becomes a tenant.

### **ADULT**

Any person 18 years of age or over.

### **ANNUAL BUDGET AUTHORITY**

The maximum annual payment by HUD to a Housing Authority for a funding increment.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC)**

A written contract between HUD and the Housing Authority. Under the contract, HUD agrees to provide funding for operation of the program, and the Housing Authority agrees to comply with HUD requirements for the program.

**ANNUAL INCOME**

The anticipated total annual income of an eligible family from all sources for the twelve (12) month period following the date of determination of income, computed in accordance with the regulations.

**APPLICANT** (or applicant family)

A family that has applied for admission to a program, but is not yet a tenant

**“AS-PAID” STATES**

States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**ASSETS**

(See Net Family Assets.)

**BASELINE INCOME**

The annual income immediately prior to implementation of the disallowance of a person who is a member of a qualified family.

**BUDGET AUTHORITY**

An amount authorized and appropriated by Congress for payment to Housing Authority's under the program. For each funding increment in a Housing Authority program, budget authority is the maximum amount that may be paid by HUD to the Housing Authority over the ACC term of the funding increment.

**CARES ACT**

Coronavirus Aid, Relief, and Economic Security Act signed into law on March 27, 2020. The CARES Act provides much needed assistance to the American people as the country works diligently to combat COVID-19.

**CHILD CARE EXPENSES**

Amounts paid by the family for the care of minors under thirteen (13) years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

**CO-HEAD**

An individual in the household who is equally responsible for the lease with the head of household. A family never has a co-head and a spouse and a co-head is never a dependent.

**CONTINUOUSLY ASSISTED**

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 certificate or voucher program.

**COVERED FAMILIES**

Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for

noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self- sufficiency program as a condition for the assistance.

**COVERED PERSON**

A tenant, any members of the tenant’s household, a guest, or another person under the tenant’s control.

**DEPENDENT**

A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student 18 years of age or over.

**DISABILITY ASSISTANCE EXPENSE**

Anticipated costs for care attendants and auxiliary apparatus for disabled family members, which enable a family member (including the disabled family member) to work.

**DISABLED PERSON**

A person who is any of the following:

A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C.423).

A person who has a physical, mental, or emotional impairment that is expected to be of long- continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that ability to live independently could be improved by more suitable housing conditions.

A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

**DISABLED FAMILY**

A family whose head (including co-head), spouse or sole member is a person with a disability.

**DISPLACED PERSON/FAMILY**

A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.

**DOMICILE**

The legal residence of the household head or spouse as determined in accordance with State and local law.

**DRUG**

Drug is a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

**DRUG-RELATED CRIMINAL ACTIVITY**

The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in Section 102 of

the Controlled Substance Act (21 U.S.C. 802).

**DRUG TRAFFICKING**

The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**ELDERLY FAMILY**

A family whose head including co-head, spouse or sole member is at least 62 years of age.

**ELDERLY PERSON**

A person who is at least 62 years of age.

**ELIGIBILITY INCOME**

On May 10, 1984, regulations deleted eligibility income because "annual income" is now used for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY**

A family is defined by the Housing Authority in this Administrative Plan, which is approved by HUD.

**EMANCIPATED MINOR**

A person under the 18 years of age and under who qualifies as an adult under state law.

**EXCESS MEDICAL EXPENSES**

Any medical expenses incurred by elderly or disabled families only in excess of three percent (3%) of annual income, which are not reimbursable from any other source.

**EXTREMELY LOW-INCOME FAMILY**

Avery low-income family whose annual income does not exceed the higher of: (1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or (2) Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family income.

**FAMILY**

Family includes but is not limited to: an elderly family or single person as defined in 24 CFR 5.403(b), the remaining member of a tenant family, and a displaced person.

**FAMILY OF VETERAN OR SERVICE PERSON**

A family is a "family of veteran or service person" when: the veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death. The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless they were (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support they are legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that they are a family member at the time of



hospitalization and there remain in the family at least two related persons.

**FAMILY SHARE**

The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE**

The size of the voucher issued to the family based on the Housing Authority's subsidy standards.

**FLAT RENT**

Rent for a public housing dwelling unit that is based on the market rent. The market rent is the rent charged for comparable units in the private, unassisted rental market at which the Housing Authority could lease the public housing unit after preparation for occupancy.

**FOSTER CHILD CARE PAYMENT**

Payment to eligible households by State, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL-TIME STUDENT**

A person who is attending school or vocational training on a full-time basis.

**FUNDING INCREMENT**

Each commitment of budget authority by HUD to a Housing Authority under the consolidated Annual Contributions Contract (ACC) for the Housing Authority programs.

**GENDER IDENTITY**

Gender identity means actual or perceived gender-related characteristics.

**GROSS RENT**

The sum of the rent to owner and the utility allowance. If there is no utility allowance, rent to owner equals gross rent.

**GUEST**

For the purposes of determining whether an individual's criminal activity is the responsibility of the resident, a guest is a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident. The requirements of the lease apply to a guest as so defined.

**HEAD OF HOUSEHOLD**

The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY**

A state, county, municipality or other governmental entity or public body authorized to administer the program. The term "Housing Authority" includes an Indian Housing Authority (IHA).

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING AUTHORITY ADMINISTRATIVE AND AGENCY PLAN**

The annual Administrative Plan and the 5-year Agency Plan as adopted by the Housing Authority and approved by HUD in accordance with part 903 of this chapter.

**HUD REQUIREMENTS**

HUD requirements are issued by HUD headquarters as regulations, Federal Register notices or other binding program directives for all tenant-based housing.

**IMPUTED ASSET**

Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**INCOME-BASED RENT**

The resident rent paid to the Housing Authority that is based on family income and the Housing Authority rental policies. The Housing Authority uses a percentage of family income or some other reasonable system to set income-based rents. The Housing Authority has broad flexibility in deciding how to set income-based rent for its residents. However, the income-based resident rent plus the Housing Authority's allowance for resident paid utilities may not exceed the total resident payment as determined by a statutory formula.

**IMPUTED INCOME**

HUD passbook rate times the total cash value of assets. This calculation is used when assets exceed \$5,000.

**IMPUTED WELFARE INCOME**

The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income. This amount is included in family annual income and, therefore, reflected in the family rental contribution based on this income.

**INITIAL PAYMENT STANDARD**

The payment standard at the beginning of the Lease.

**INCOME**

Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY**

Gross annual income.

**INCOME TARGETING**

The HUD admissions requirement that Housing Authority's not admit less than the number required by law of families whose income does not exceed thirty (30) percent of the area median income in a fiscal year.

**INDIAN**

Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal

government, or any State.

**INDIAN HOUSING AUTHORITY (IHA)**

A housing agency established either: by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**JURISDICTION**

The area in which the Housing Authority has authority under State and local law to administer the program.

**LANDLORD**

Refers to the HA, as either the legal owner of the property, or the owner’s representative or managing agent as designated by the owner.

**LEASE**

A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family

**LEASE ADDENDUM**

See Tenancy Addendum

**LIVE-IN AIDE**

A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person and is not obligated for the support of the person. They would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE**

A preference used by the Housing Authority to select among applicant families without regard to their federal preference status.

**LOW-INCOME FAMILY**

A family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the voucher program, HUD may establish income limits higher or lower than 80 % of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

**MEDICAL EXPENSES**

Those total medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. A deduction for elderly households only. These allowances are given when calculating adjusted income for medical expenses in excess of three percent (3%) of annual income.

**MEDICAL MARIJUANA**

Medical Marijuana refers to the use of cannabis or marijuana, including constituents of cannabis, THC and other cannabinoids, a physician recommended form of medicine of

herbal therapy.

**MINIMUM RENT**

An amount established by the PHA between zero and \$50.

**MINOR**

A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**MIXED FAMILY**

A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3).

**MONTHLY ADJUSTED INCOME**

1/12 of the Annual Income after Allowances or Adjusted Income.

**MONTHLY INCOME**

1/12 of the Annual Income.

**NATIONAL**

A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEAR-ELDERLY FAMILY**

A family whose head (including co-head), spouse, or sole member is at least 50, but less than 62 years of age; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62

**NEGATIVE RENT**

Now called Utility Reimbursement. A negative tenant rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS**

Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are excluded from the definition.

**NET FAMILY CONTRIBUTION**

Former name for tenant rent.

**NON-CITIZEN**

A person who is not a citizen or a national of the United States.

**OCCUPANCY STANDARDS [Now referred to as Subsidy Standards]**

Standards established by a Housing Authority to determine the appropriate number of bedrooms for families of different sizes and compositions.

**PERSONS WITH DISABILITIES**

Individuals with any condition or characteristic that renders a person an individual with a handicap as defined in 24 CFR 8.2.

**PREMISES**

The building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**PREVIOUSLY UNEMPLOYED**

Includes a person who has earned, in the twelve (12) months previous to employment, no more than would be received for ten (10) hours of work per week for fifty (50) weeks at the established minimum wage.

**PROGRAM**

The Public Housing program under 24 CFR Part 960.

**QUALIFIED FAMILY**

A family residing in public housing whose annual income increases as a result of employment of a family member who was unemployed for one or more years prior to employment; or increased earnings by a family member during participation in any economic self-sufficiency program or on the job training program; or 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 Temporary Assistance for Needy Families (TANF) funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local TANF agency and Welfare to Work programs. TANF includes income and benefits and services such as one-time payments, wage subsidies and transportation assistance, as long as the total amount over a six (6) month period is at least \$500.

**QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998**

The Act, which amended the U.S. Housing Act of 1937 and is known as the Public Housing Reform Bill. The Act is directed at revitalizing and improving HUD's Public Housing and Housing Choice Vouchers (HCV) programs.

**PUBLIC ASSISTANCE**

Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, State, or local governments.

**PUBLIC HOUSING AGENCY (PHA)**

Any state, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

- A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members)
- Any other public or private non-profit entity that was administering a Housing Choice Voucher tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a Housing Authority) on October 21, 1998
- For any area outside the jurisdiction of a Housing Authority that is administering a

tenant- based program, or where HUD determines that such Housing Authority is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**RECERTIFICATION**

Also referred to as reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next twelve (12) months if there are no additional changes to be reported. There are annual and interim recertifications.

**REMAINING MEMBER OF TENANT FAMILY**

Person left in assisted housing after other family members have left and become unassisted.

**RESIDENT**

Refers to participants in terms of their relation as a lessee to the Housing Authority as the landlord.

**RESIDENCY PREFERENCE**

A Housing Authority preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**RESIDENCY PREFERENCE AREA**

The specified area where families must reside to qualify for a residency preference.

**RESPONSIBLE ENTITY**

For the Public Housing and Housing Choice Voucher assistance, project-based voucher assistance and moderate rehabilitation program, the responsible entity means the Housing Authority administering the program under an ACC with HUD. For all other Housing Choice Voucher programs, the responsible entity means the Housing Choice Voucher owner.

**SECURITY DEPOSIT**

A dollar amount, which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICE PERSON**

A person in the active military or naval service (including the active reserve) of the United States.

**SEXUAL ORIENTATION**

Sexual orientation means homosexuality, heterosexuality or bisexuality.

**SINGLE PERSON**

A person living alone or intending to live alone.

**SPECIAL ADMISSION**

Admission of an applicant that is not on the Housing Authority waiting list or without considering the applicant's waiting list position.

**SPORADIC INCOME**

Income that is temporary, occasional and nonrecurring including gifts that are excluded

from annual income.

**SPOUSE**

The husband or wife of the head of the household.

**SUBSIDIZED PROJECT**

A multi-family housing project (with the exception of a project owned by a cooperative housing Mortgage Corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Housing Choice Voucher Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
- A Public Housing Project.

**SUBSIDY STANDARDS**

Standards established by a Housing Authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**SUBSTANDARD UNIT**

Substandard housing is defined by HUD for use as a federal preference.

**TENANCY ADDENDUM**

In the lease between the tenant and the owner, the lease language required by HUD.

**TENANT**

The person or persons (other than a live-in aide) who execute the lease as lessee of the dwelling unit.

**TENANT RENT**

The amount payable monthly by the family as rent to the unit owner (Housing Choice Voucher owner or Housing Authority in Public Housing).

**TOTAL TENANT PAYMENT (TTP)**

The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**UNIT**

Residential space for the private use of a family.

**UNUSUAL EXPENSES**

Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under thirteen (13) years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES**

Utilities mean water, electricity, gas, other heating, and refrigeration, cooking fuels, trash collection and sewage services. Telephone and cable service are not included as a utility.

**UTILITY ALLOWANCE**

If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a Housing Authority or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT PAYMENT**

The amount the utility allowance exceeds the total tenant payment for the family occupying the unit.

**VERY LOW INCOME FAMILY**

A lower-income family whose annual income does not exceed fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than fifty percent (50%) of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Voucher Program.

**VETERAN**

A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released there from under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY**

Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**WAITING LIST ADMISSION**

An admission from the Housing Authority waiting list.

**WAITING LIST**

A list of families organized according to HUD regulations and Housing Authority Procedure that are waiting for subsidy to become available.

**WAIVER**

An intentional relinquishment of some right, interest, or the like. HUD issued COVID-19 Related Waivers to assist PHAs and Tribal housing providers in continuing to operate and provide critical housing services to their local communities.

**WELFARE ASSISTANCE**



Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families.

**WELFARE RENT**

This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS- PAID" basis. It is not used for the Housing Choice Voucher Program.

If the agency does not apply a ratable reduction, this is the maximum a public assistance agency could give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed. If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

## **GLOSSARY OF TERMS USED IN THE NON-CITIZENS RULE**

### **CHILD**

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

### **CITIZEN**

A citizen or national of the United States.

### **EVIDENCE**

Evidence of citizenship or eligible immigration status means the documents, which must be submitted to evidence citizenship or eligible immigration status.

### **HOUSING AUTHORITY**

A Public Housing Agency or an Indian Housing Authority or both.

### **HEAD OF HOUSEHOLD**

The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

### **HUD**

Department of Housing and Urban Development.

### **MIXED FAMILY**

A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

### **NATIONAL**

A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

### **NON-CITIZEN**

A person who is not a citizen or a national of the United States.

### **PUBLIC HOUSING AUTHORITY**

A housing authority that operates Public Housing.

### **RESPONSIBLE ENTITY**

The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the Housing Authority).

### **SECTION 214**

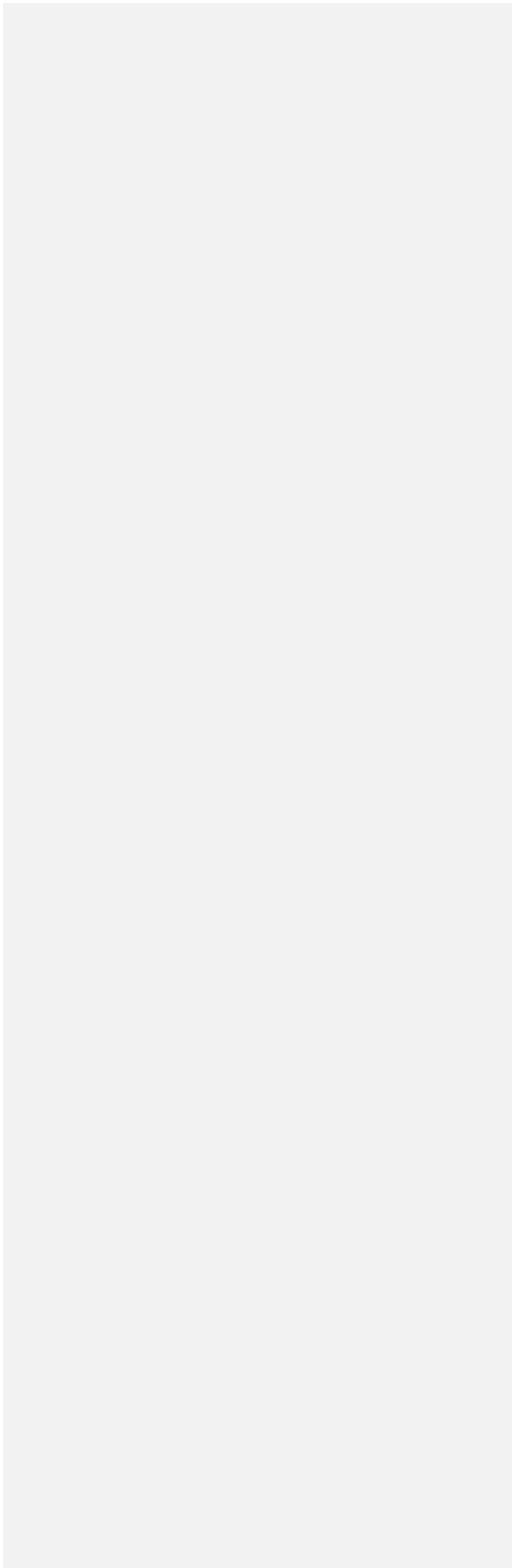
Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**SPOUSE**

Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or “co-heads.” “Co-head” is a term recognized by some HUD programs, but not by public and Indian housing programs.

**USCIS**

U.S. Citizenship and Immigration Services.



**Admission and Continued Occupancy Plan**

**Chapter 1**

**1-I.D. HOUSING AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, the Authority is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the Authority resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe and sanitary housing in good repair and to remain in compliance with HUD's Uniform Physical Condition Standards (UPCS).
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socioeconomic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the Authority's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the Authority's support systems and commitment to our employees and their professional development.

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

**1-III.B. CONTENTS OF THE PROCEDURE**

Unlike the Housing Choice Voucher Program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the Housing Authority's written Procedure. At a minimum, the ACOP plan should cover Housing Authority policies on these subjects:

## **Attachment E – Deconcentration Policy**

- The organization of the waiting lists and how applicants are selected and offered available units, including any Housing Authority admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and Reopening the Housing Authority waiting lists (see Chapter 4-Applications, Waiting Lists and Tenant Selection and Chapter 5-Occupancy Standards and Unit Offers for more information).
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (see Chapter 12-Transfer Procedure for more information).
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (see Chapter 3-Eligibility and Chapter 5-Occupancy Standards and Unit Offers for more information).
- Procedures for verifying the information the applicant/participant has provided (see Chapter 7- Verification for more information).
- The method for achieving deconcentration of poverty and income mixing of public housing developments (see Chapter 4- Applications, Waiting List and Tenant Selection for more information).
- Grievance procedures (see Chapter 14-Grievances and Appeals for more information).
- Policies concerning payments by a family to the Housing Authority of amounts the family owes the Housing Authority (see Chapter 15-Program Integrity and Chapter 16- Program Administration for more information).
- Annual and interim reexaminations of family income and composition (see Chapter 9- Reexaminations for more information).
- Policies regarding community service requirements (see Chapter 11-Community Service for more information).
- Policies and rules about safety and ownership of pets in public housing (see Chapter 10- Pet Ownership for more information).

### **Chapter 4**

#### **SPECIAL ADMISSIONS**

If HUD awards a Housing Authority program funding that is targeted for specifically named families, the Housing Authority will admit these families under a special admission procedure. Special admission families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list.

The Housing Authority maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD

## Attachment E – Deconcentration Policy

for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

### **Income Targeting Requirement [24 CFR 960.202(b)]**

Not less than 40 percent of the families admitted to the Housing Authority's public housing program during the Housing Authority's fiscal year from the Housing Authority's waiting list shall be Extremely Low Income (ELI) families. This is called the "basic targeting requirement." To ensure this requirement is met, the Housing Authority may skip non-ELI families on the waiting list in order to select an ELI family.

Admission of ELI families to the Housing Authority's Housing Choice Voucher Program during the same Housing Authority fiscal year is credited against the basic targeting requirement.

A Housing Authority must comply with both the targeting requirement and the deconcentration requirements found in part 24 CFR 903.

### **Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]**

The Housing Authority's admission Procedure must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the Housing Authority's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

The Housing Authority's deconcentration Procedure must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments.

Developments not subject to deconcentration and income mixing requirements:

- Public housing developments operated by a Housing Authority with fewer than 100 public housing units;

## Attachment E – Deconcentration Policy

- Public housing developments operated by a Housing Authority who house only elderly or disabled families, or both;
- Public housing developments operated by a Housing Authority which consist of only one general occupancy, family public housing development;
- Public housing developments approved for demolition or for conversion to tenant- based public housing;
- Public housing developments approved for demolition or for conversion to tenant- based assistance; and
- Public housing developments which include public housing units operated in accordance with HUD-approved mixed-finance plan using HOPE VI, Choice Neighborhoods, Jobs Plus Pilot Program or public housing funds awarded before the effective date of this rule provided that the Housing Authority certifies (and includes reason for this certification) as part of the PHA Plan (which may be accomplished either in the Annual Plan submission or as a significant amendment to its PHA Plan) that exemption from the regulation is necessary to honor an existing contractual agreement or be consistent with a mixed finance plan, including provisions regarding the incomes of public housing residents to be admitted to that development, which has been developed in consultation with residents with rights to live at the affected development and other interested persons. [24 CFR 903.2(b)].

### **Steps for Implementation [24 CFR 903.2(c)(1)]**

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the Housing Authority must comply with the following steps:

- *Step 1.* A Housing Authority shall determine the average income of all families residing in all the Housing Authority's covered developments. A Housing Authority may use median income, instead of average income, provided that the Housing Authority includes a written explanation in its PHA Annual Plan justifying use of median income in the PHA's Annual Plan.

#### Housing Authority Procedure

The Housing Authority uses median income instead of average income.

- *Step 2.* A Housing Authority shall determine the average income of all families residing in each covered development. In determining average income for each development, a Housing Authority has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.
- *Step 3.* A Housing Authority shall determine whether each of its covered developments falls above, within or below the Established Income Range (EIR). The EIR is from 85 to 115 percent (inclusive) of the average family income (the Housing Authority -wide average income for covered developments as defined in Step 1), except that the upper limit shall never be

## Attachment E – Deconcentration Policy

less than the income at which a family would be defined as an extremely low income family under 24 CFR 5.603(b).

▪ *Step 4.* A Housing Authority with covered developments having average incomes outside the EIR may explain or justify the income profile for these developments as being consistent with and furthering two sets of goals:

▪ The goals of deconcentration of poverty and income mixing as specified by the statute (bringing higher income tenants into lower income developments and vice versa); and

▪ The local goals and strategies contained in the PHA Annual Plan. Elements of explanations or justifications that may satisfy these requirements may include, but shall not be limited to the following:

▪ The covered development or developments are subject to consent decrees or other resident selection and admission plans mandated by court action;

▪ The covered development or developments are part of the Housing Authority's programs, strategies or activities specifically authorized by statute, such as mixed-income or mixed-finance developments, homeownership programs, self-sufficiency strategies, or other strategies designed to deconcentrate poverty, promote income mixing in public housing, increase the incomes of public housing residents, or the income mix is otherwise subject to individual review and approval by HUD;

▪ The covered development's or developments' size, location, and/or configuration promote income deconcentration, such as scattered site or small developments; or

▪ The income characteristics of the covered development or developments are sufficiently explained by other circumstances.

▪ *Step 5.* Where the income profile for a covered development is not explained or justified in the PHA Annual Plan submission, the Housing Authority shall include in its admission Procedure its specific Procedure to provide for deconcentration of poverty and income mixing in applicable covered developments. Depending on local circumstances, a Housing Authority's deconcentration Procedure (which may be undertaken in conjunction with other efforts such as efforts to increase self-sufficiency or current residents) may include but is not limited to providing for one or more of the following actions:

▪ Providing incentives designed to encourage families with incomes below the EIR to accept units in developments with incomes above the EIR, or vice versa, including rent incentives, affirmative marketing plans, or added amenities;

▪ Targeting investment and capital improvements toward developments with an average income below the EIR to encourage applicant families whose income is above the EIR to accept units in those developments;

▪ Establishing a preference for admission of working families in developments below the EIR;



## Attachment E – Deconcentration Policy

- Skipping a family on the waiting list to reach another family in an effort to further the goals of the Housing Authority's deconcentration Procedure; or
- Providing such other strategies as permitted by statute and determined by the Housing Authority in consultation with the residents and the community, through the PHA Annual Plan process, to be responsive to the local context and the Housing Authority's strategic objectives.

A family has the sole discretion whether to accept an offer of a unit made under the Housing Authority's deconcentration Procedure. The Housing Authority must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the Housing Authority's deconcentration Procedure [24 CFR 903.2(c)(4)].

HUD shall consider a Housing Authority to be in compliance with this 24 CFR 903.2 if:

1. The Housing Authority's income analysis shows that the Housing Authority has no general occupancy family developments to which the deconcentration requirements apply; that is, the average incomes of all covered developments are within the EIR;
2. The Housing Authority has covered developments with average incomes above or below the EIR and the Housing Authority provides a sufficient explanation in its Annual Plan that supports that the income mix of such development or developments is consistent with and furthers the goal of deconcentration of poverty and income mixing and also the locally determined goals of the PHA's Annual and Five Year Plans, and the Housing Authority therefore need not take further action to deconcentrate poverty and mix incomes; or
3. The Housing Authority's deconcentration Procedure provides specific strategies the Housing Authority will take that can be expected to promote deconcentration of poverty and income mixing in developments with average incomes outside of the EIR.

### Housing Authority Procedure

For developments above or below the EIR the Housing Authority will take the following actions to provide for deconcentration of poverty and income mixing:

- Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the Housing Authority.
- When selecting applicants from the waiting list, the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.
  - By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of pre-application or higher preference status.
  - Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority Procedure.

**Order of Selection [24 CFR 960.206(e)]**

The Housing Authority's system of preferences may select applicants either according to the date and time of application or by a random selection process.

Housing Authority Procedure

Applicants will be selected from the waiting list based on preferences. Among applicants with the same preference, applicants will be selected on a first-come, first-served basis according to the date and time their completed pre-application is received by the Housing Authority.

When selecting applicants from the waiting list, the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest-ranking applicant who qualifies for that unit size or type.

By matching unit and family characteristics, it is possible that applicants who are lower on the waiting list may receive an offer of housing ahead of applicants with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority Procedure.

**Chapter 12**

**12-IV.E. DECONCENTRATION**

Housing Authority Procedure

If subject to deconcentration requirements, the Housing Authority will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the Housing Authority's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

**Housing Choice Voucher Administrative Plan**

**Chapter 23**

**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.

**Civil Rights Certification**  
***(Qualified PHAs)***

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0226  
Expires 02/29/2016

**Civil Rights Certification**

**Annual Certification and Board Resolution**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official, I approve the submission of the 5-Year PHA Plan for the PHA of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the public housing program of the agency and implementation thereof:*

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those program, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.

Housing Authority of the County of Merced  
PHA Name

CA023  
PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Rosa Vazquez	Executive Director
Signature	Date

**Certification by State or Local  
 Official of PHA Plans Consistency  
 with the Consolidated Plan or  
 State Consolidated Plan  
 (All PHAs)**

U. S Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 2/29/2016

**Certification by State or Local Official of PHA Plans  
 Consistency with the Consolidated Plan or State Consolidated Plan**

I, Stephanie R. Dietz, the City Manager,  
*Official's Name* *Official's Title*

certify that the 5-Year PHA Plan and/or Annual PHA Plan of the

Housing Authority of the County of Merced,  
*PHA Name*

is consistent with the Consolidated Plan or State Consolidated Plan and the Analysis of

Impediments (AI) to Fair Housing Choice of the

City of Merced  
*Local Jurisdiction Name*

pursuant to 24 CFR Part 91.

Provide a description of how the PHA Plan is consistent with the Consolidated Plan or State Consolidated Plan and the AI.

Both plans emphasize efforts provide clean, safe and permanent housing to low income and/or homeless families and individuals. Both plans also emphasize efforts to house homeless veterans.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Stephanie R. Dietz	City Manager
Signature	Date

Capital Fund Program - Five-Year Action Plan

Status: Approved

Approval Date:

Approved By:

Part I: Summary						
PHA Name : County of Merced Housing Authority			Locality (City/County & State)			
PHA Number: CA023			<input checked="" type="checkbox"/> Original 5-Year Plan		<input type="checkbox"/> Revised 5-Year Plan (Revision No: )	
A.	Development Number and Name	Work Statement for Year 1 2018	Work Statement for Year 2 2019	Work Statement for Year 3 2020	Work Statement for Year 4 2021	Work Statement for Year 5 2022
	AUTHORITY-WIDE	\$119,749.00	\$323,821.10	\$144,385.10	\$148,387.30	\$148,389.80
	GATEWAY HOMES (CA023000001)	\$220,238.00	\$243,776.50	\$834,665.70	\$778,685.70	\$467,976.20
	SCATTERED SITES (CA023000003)	\$94,800.00	\$477,381.20	\$164,800.20	\$184,800.00	\$64,800.00
	SCATTERED SITES (CA023000002)	\$752,708.00	\$295,003.20		\$72,000.00	\$502,707.00
	SCATTERED SITES (CA023000004)	\$10,000.00				

Capital Fund Program - Five-Year Action Plan

<b>Part II: Supporting Pages - Physical Needs Work Statements (s)</b>				
<b>Work Statement for Year</b> 1		2018		
<b>Identifier</b>	<b>Development Number/Name</b>	<b>General Description of Major Work Categories</b>	<b>Quantity</b>	<b>Estimated Cost</b>
	GATEWAY HOMES (CA023000001)			\$220,238.00
ID0001	HVAC/Roofs/Window Replacement(Dwelling Unit-Exterior (1480)-Roofs,Dwelling Unit-Exterior (1480)-Windows,Dwelling Unit-Interior (1480)-Mechanical)	Replace HVAC units, roofing materials and Windows for 10 residential units in CA023001, Merced.		\$220,238.00
	SCATTERED SITES (CA023000003)			\$94,800.00
ID0007	Replace Water Heaters(Dwelling Unit-Interior (1480)-Plumbing)	Replace water heaters 48 units		\$64,800.00
ID0017	Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	For asbestos/lead testing; required civil engineering		\$30,000.00
	SCATTERED SITES (CA023000002)			\$752,708.00
ID0013	Unit modification - CA023006(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (60 units)		\$376,354.00

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year 1 2018				
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
ID0014	Unit modification - CA0230002, 23-04, 23-11(Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets,Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (up to 60 units)		\$376,354.00
	SCATTERED SITES (CA023000004)			\$10,000.00
ID0016	Miscellaneous Unit Modifications - PHA Wide(Dwelling Unit-Exterior (1480)-Soffits,Dwelling Unit-Exterior (1480)-Roofs,Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Bathroom Flooring (non cyclical),Dwelling Unit-Interior (1480)-Commodes,Dwelling Unit-Interior (1480)-Electrical,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Interior Doors,Dwelling Unit-Interior (1480)-Interior Painting (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets,Dwelling Unit-Interior (1480)-Mechanical,Dwelling Unit-Interior (1480)-Plumbing,Dwelling Unit-Interior (1480)-Tubs and Showers)	Miscellaneous,as needed, repair and/or replacement of HVAC units, roofing leaks, flooring, countertop, cabinets, water heaters		\$10,000.00
	AUTHORITY-WIDE (NAWASD)			\$119,749.00
ID0040	Administration (Administration (1410)-Other)	Admin fees		\$119,749.00
	Subtotal of Estimated Cost			\$1,197,495.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		2019		
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
	AUTHORITY-WIDE (NAWASD)			\$323,821.10
ID0023	Operations(Operations (1406))	Transfer to operations		\$177,581.00
ID0022	Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	For any required engineering fees, permits, testing		\$30,000.00
ID0041	Administration (Administration (1410)-Other)	Admin fees		\$116,240.10
	GATEWAY HOMES (CA023000001)			\$243,776.50
ID0002	HVAC/Roofs/Window Replacement(Dwelling Unit-Exterior (1480)-Windows,Dwelling Unit-Interior (1480)-Mechanical,Dwelling Unit-Exterior (1480)-Roofs)	Replace HVAC units, roofing materials and Windows for 10 residential units in CA023001, Merced.		\$228,776.50
ID0020	Unit modification - CA02300021(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Interior Doors,Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets,Dwelling Unit-Exterior (1480)-Exterior Doors,Dwelling Unit-Exterior (1480)-Exterior Paint and Caulking,Dwelling Unit-Exterior (1480)-Windows)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout unit, interior and exterior paint, repair garage ceiling, replace doors		\$15,000.00





Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		2019		
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
ID0027	Unit modification - CA02300003(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$154,225.16
	Subtotal of Estimated Cost			\$1,339,982.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		2020		
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
	GATEWAY HOMES (CA023000001)			\$834,665.70
ID0003	HVAC/Roofs/Window Replacement(Dwelling Unit-Exterior (1480)-Roofs,Dwelling Unit-Exterior (1480)-Windows,Dwelling Unit-Interior (1480)-Mechanical)	Replace HVAC units, roofing materials and Windows for 15 residential units in CA023001, Merced.		\$219,336.70
ID0028	Unit modification - CA02300001(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (up to 20 units)		\$287,589.00
ID0033	Unit modification - CA02300001(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (approximately 4 units)		\$40,151.00
ID0034	Unit modification - CA02300028(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$287,589.00
	SCATTERED SITES (CA023000003)			\$164,800.20
ID0009	Replace Water Heaters(Dwelling Unit-Interior (1480)-Plumbing)	Replace water heaters 48 units		\$64,800.20

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year 3 2020				
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
ID0029	Unit modification - CA02300012D(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (up to 10 units)		\$100,000.00
	AUTHORITY-WIDE (NAWASD)			\$144,385.10
ID0024	Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	For any required engineering fees, permits, testing		\$30,000.00
ID0042	Administration (Administration (1410)-Other)	Admin fees		\$114,385.10
	Subtotal of Estimated Cost			\$1,143,851.00

Capital Fund Program - Five-Year Action Plan

<b>Part II: Supporting Pages - Physical Needs Work Statements (s)</b>				
<b>Work Statement for Year</b> 4		2021		
<b>Identifier</b>	<b>Development Number/Name</b>	<b>General Description of Major Work Categories</b>	<b>Quantity</b>	<b>Estimated Cost</b>
	GATEWAY HOMES (CA023000001)			\$778,685.70
ID0004	HVAC/Roofs/Window Replacement(Dwelling Unit-Exterior (1480)-Roofs,Dwelling Unit-Exterior (1480)-Windows,Dwelling Unit-Interior (1480)-Mechanical)	Replace HVAC units, roofing materials and Windows for 10 residential units in CA023001, Merced.		\$207,978.70
ID0032	Unit modification - CA02300001(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$300,000.00
ID0037	Unit modification - CA02300010(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$270,707.00
	SCATTERED SITES (CA023000003)			\$184,800.00
ID0010	Replace Water Heaters(Dwelling Unit-Interior (1480)-Plumbing)	Replace water heaters 48 units		\$64,800.00
ID0030	Unit modification - CA02300012C(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units (up to 12 units)		\$120,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year 4 2021				
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
	AUTHORITY-WIDE (NAWASD)			\$148,387.30
ID0025	Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	For any required engineering fees, permits, testing		\$30,000.00
ID0044	Administration (Administration (1410)-Other)	Admin fees		\$118,387.30
	SCATTERED SITES (CA023000002)			\$72,000.00
ID0035	Unit modification - CA02300012B(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$72,000.00
	Subtotal of Estimated Cost			\$1,183,873.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year 5 2022				
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
	GATEWAY HOMES (CA023000001)			\$467,976.20
ID0005	HVAC/Roofs/Window Replacement(Dwelling Unit-Exterior (1480)-Roofs,Dwelling Unit-Exterior (1480)-Windows,Dwelling Unit-Interior (1480)-Mechanical)	Replace HVAC units, roofing materials and Windows for 10 residential units in CA023001, Merced.		\$207,976.20
ID0038	Unit modification - CA02300010(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Flooring (non routine),Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace Cabinets/countertops in Kitchen and bathrooms; replace flooring throughout units		\$260,000.00
	SCATTERED SITES (CA023000003)			\$64,800.00
ID0011	Replace Water Heaters(Dwelling Unit-Interior (1480)-Plumbing)	Replace water heaters 48 units		\$64,800.00
	AUTHORITY-WIDE (NAWASD)			\$148,389.80
ID0026	Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	For any required engineering fees, permits, testing		\$30,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year 5 2022				
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost
ID0043	Administration (Administration (1410)-Other)	Admin fees		\$118,389.80
	SCATTERED SITES (CA023000002)			\$502,707.00
ID0039	HVAC Replacement - CA023006, 03(Dwelling Unit-Interior (1480)-Mechanical)	Replace HVAC units, upgrade ducting as-needed		\$502,707.00
	Subtotal of Estimated Cost			\$1,183,873.00



<b>Part III: Supporting Pages - Management Needs Work Statements (s)</b>	
<b>Work Statement for Year</b> 1	2018
<b>Development Number/Name General Description of Major Work Categories</b>	<b>Estimated Cost</b>
Housing Authority Wide	
Administration (Administration (1410)-Other)	\$119,749.00
Subtotal of Estimated Cost	\$119,749.00

Capital Fund Program - Five-Year Action Plan

<b>Part III: Supporting Pages - Management Needs Work Statements (s)</b>	
<b>Work Statement for Year</b> 2	2019
<b>Development Number/Name General Description of Major Work Categories</b>	<b>Estimated Cost</b>
Housing Authority Wide	
Operations(Operations (1406))	\$177,581.00
Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	\$30,000.00
Administration (Administration (1410)-Other)	\$116,240.10
Subtotal of Estimated Cost	\$323,821.10

<b>Part III: Supporting Pages - Management Needs Work Statements (s)</b>	
<b>Work Statement for Year</b> 3	2020
<b>Development Number/Name General Description of Major Work Categories</b>	<b>Estimated Cost</b>
Housing Authority Wide	
Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	\$30,000.00
Administration (Administration (1410)-Other)	\$114,385.10
Subtotal of Estimated Cost	\$144,385.10

<b>Part III: Supporting Pages - Management Needs Work Statements (s)</b>	
<b>Work Statement for Year</b> 4	2021
<b>Development Number/Name General Description of Major Work Categories</b>	<b>Estimated Cost</b>
Housing Authority Wide	
Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	\$30,000.00
Administration (Administration (1410)-Other)	\$118,387.30
Subtotal of Estimated Cost	\$148,387.30

<b>Part III: Supporting Pages - Management Needs Work Statements (s)</b>	
<b>Work Statement for Year</b> 5	2022
<b>Development Number/Name</b> <b>General Description of Major Work Categories</b>	<b>Estimated Cost</b>
Housing Authority Wide	
Fees & Costs(Contract Administration (1480)-Other Fees and Costs)	\$30,000.00
Administration (Administration (1410)-Other)	\$118,389.80
Subtotal of Estimated Cost	\$148,389.80