20265 HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN

Metropolitan Council Housing and Redevelopment Authority

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INTRODUCTION

HOTMA CHANGES IN THE ADMINSTRATIVE PLAN

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

HOTMA 102/104

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, ~~and~~ reexaminations,~~s~~ ~~(among others)~~and more to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD ~~has~~ delayed full ~~the~~ compliance ~~date~~ for HOTMA 102/104. ~~*Initially, HUD published a delayed compliance date of January 1, 2025, but HUD again delayed the compliance date for HOTMA 102/104and no new date has been provided.*~~ *Compliance* with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also submitting Form HUD-50058s with family information to HUD's electronic reporting system. ~~reporting in HUD's new Housing Information Portal (HIP) system.~~ Currently, PHAs remain unable to fully comply with HOTMA 102/104 because ~~compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to~~ HUD's ~~new~~ current IMS/PIC system is unable to ~~HIP system (which will be the only system that~~ accept~~s~~ HOTMA-compliant Form HUD-50058s). ~~PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible.~~ However, HUD has determined that some ~~a few~~ HOTMA 102/104 policies are not dependent on transition systems and ~~easily isolated from other HOTMA 102/104 policy changes. These policies may be implemented prior to the migration to HIP.~~specified a PHA implementation date for these policies of July 1, 2025.

~~HUD stated that PHAs may update their policy documents before determining the date at which they will transition to all HOTMA Section 102 and 104 policies. HUD stated that in order to update their policy documents for HOTMA in this circumstance, PHAs may create an appendix that contains the HOTMA policies that will be incorporated at a later date. The model policy adopts such an approach.~~ HOTMA 102/104 policies are provided in each affected area of the model policy. ~~However, with the exception of the policies HUD has indicated may be adopted early,~~ HOTMA policies that are "on hold" are indicated in the model policy as such. ~~Further, an appendix has~~ The provided appendix ~~been provided to~~ explicitly identifies~~call out those policies~~ all HOTMA elements that are on hold.

~~**HOTMA VOUCHER FINAL RULE**~~

~~The final rule implementing streamlining changes to the HCV and PBV programs was published on May 7, 2024, and codified certain provisions in Sections 101, 105, 106, and 112 of HOTMA, as well as incorporating changes from the NSPIRE final rule discussed above. The rule is known as the "HOTMA voucher final rule." The effective date of the HOTMA voucher final rule was June 6, 2024. While the compliance date for certain provisions of the rule is the same as the effective date, the compliance date for other provisions is not until 90 days, 180 days, or one year after the effective date. Further, many new changes to the regulations described in the HOTMA voucher final rule require changes to the PHA's administrative plan. PHAs must make all revisions needed to bring existing policies into compliance with the final rule no later than June 6, 2025 (one year after the effective date). However, if a PHA wishes to use program flexibilities requiring adoption of new local policies not already present in the PHA's administrative plan, the PHA must add those policies to the administrative plan prior to using those program flexibilities.~~

~~Further, the delayed compliance date for policies of June 6, 2025, does not authorize delayed compliance with the provisions of the rule. PHAs that choose not to bring their policies into compliance with the rule until June 6, 2025, must still implement each provision on its compliance date.~~

~~In order to identify those provisions of the final rule that are not effective until after June 6, 2024, the model policy states that certain policies are not effective until a specific date.~~

ABOUT ADMINISTRATIVE PLAN

REFERENCES CITED IN THE ADMINISTRATIVE PLAN

The authority for PHA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

NSPIRE AND HQS IN THE ADMINISTRATIVE PLAN

The PHA must determine that the rental unit selected by the family is in safe and habitable condition at certain times prescribed by the regulations. The current applicable inspection standard for the HCV and PBV programs is Housing Quality Standards (HQS). On May 11, 2023, HUD published a final rule implementing the National Standards for the Physical Inspection of Real Estate (NSPIRE final rule), a new approach to defining and assessing housing quality across multiple HUD programs. 24 CFR 5.703 describes the NSPIRE standards, including variations for the HCV and PBV programs. Notice PIH 2023-28 and Notice 2024-26, REV-1 finalized the administrative procedures for NSPIRE as they pertain specifically to the HCV and PBV programs. Collectively, this is known as "NSPIRE-V."

The compliance date for NSPIRE-V ~~is~~ was to be no later than October 1, 2025. However, in September 2025, HUD extended the NSPIRE-V compliance date to January 31, 2027, at which point the HQS inspection standard will sunset. PHAs may, however, implement NSPIRE-V prior to January 31, 2027, provided they do so in accordance with HUD requirements. ~~at which point the HQS inspection standard will sunset. PHAs may, however, implement NSPIRE-V prior to October 1, 2025, provided they do so in accordance with requirements in FR Notice 7/5/24.~~

Because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards in accordance with 24 CFR 5.703 for the HCV program including any variations approved by HUD, ~~However, even once the HQS inspection standard has sunset, the~~ regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs continue to and will continue to use the terms *HQS and housing quality standards* rather than *NSPIRE*. ~~This is because, the definition of housing quality standards (HQS) at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. As such, t~~The model policy therefore uses the term *housing quality standards* whenever used by applicable regulations. ~~use this term. Except in the chapter describing HQS, the acronym HQS is not used in the model policy in order to avoid confusion between the umbrella term meaning housing standards and the specific inspection protocol. The model policy only uses the term NSPIRE when referring to specific NSPIRE standards.~~

The model policy includes two housing quality standards chapters for those PHAs that have not yet implemented NSPIRE. The chapter for those PHAs continuing to utilize HQS no longer applies upon the PHA's NSPIRE implementation date or upon HUD's required NSPIRE implementation date, which comes earlier. If a PHA's administrative plan only includes the NSPIRE chapter, the PHA has implemented NSPIRE requirements.

Except in the chapter describing HQS, the acronym *HQS* is not used in the model policy in order to avoid confusion between umbrella term meaning housing standards and the specific

inspection protocol. The model policy only uses the term *NSPIRE* when referring to specific NSPIRE standards.

~~**HOTMA SECTIONS 102 AND 104 CHANGES IN THE MODEL POLICY**~~

~~On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. HUD published a final rule on February 14, 2023, revising regulations related to income and assets (Sections 102 and 104 of HOTMA). While the new income and asset regulations were effective January 1, 2024, PHAs were instructed to select a compliance date no later than January 1, 2025. Compliance with Sections 102 and 104 of HOTMA means not only applying HOTMA regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to select a compliance date because HOTMA compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). Because HOTMA-compliant reexaminations cannot be successfully submitted to IMS/PIC, HUD advised PHAs not to begin conducting reexaminations under HOTMA rules without further information on when the new HOTMA-compliant Form HUD-50058 in HIP will be available. PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible.~~

~~**HOTMA VOUCHER FINAL RULE CHANGES IN THE MODEL POLICY**~~

~~The final rule implementing streamlining changes to the HCV and PBV programs was published on May 7, 2024, and codified certain provisions in Sections 101, 105, 106, and 112 of HOTMA, as well as incorporating changes from the NSPIRE final rule discussed above. The rule is known as the "HOTMA voucher final rule." The effective date of the HOTMA voucher final rule was June 6, 2024. While the compliance date for certain provisions of the rule is the same as the effective date, the compliance date for other provisions is not until 90 days, 180 days, or one year after the effective date. Further, many new changes to the regulations described in the HOTMA voucher final rule require changes to the PHA's administrative plan. PHAs must make all revisions needed to bring existing policies into compliance with the final rule no later than June 6, 2025 (one year after the effective date). However, if a PHA wishes to use program flexibilities requiring adoption of new local policies not already present in the PHA's administrative plan, the PHA must add those policies to the administrative plan prior to using those program flexibilities. Further, the delayed compliance date for policies of June 6, 2025, does not authorize delayed compliance with the provisions of the rule. PHAs that choose not to bring their policies into compliance with the rule until~~

~~June 6, 2025, must still implement each provision on its compliance date.~~

~~In order to identify those provisions of the final rule that are not effective until after June 6, 2024, the model policy states that certain policies are not effective until a specific date.~~

RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the model administrative plan or that may be helpful to you.

HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards,* p. 11). On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual reexaminations and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the HCV Guidebook.

Abbreviations

Throughout the model administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the model administrative plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
New HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), Various dates of release
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips.

Following is a list of resources helpful to the PHA or referenced in the administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations (24 CFR) https://www.ecfr.gov/
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System~~, Security Procedures for Upfront Income Verification data~~ ~~https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF~~ https://www.hud.gov/helping-americans/public-indian-housing-eiv
~~Executive Order 11063~~ ~~https://www.archives.gov/federal-register/codification/executive-order/11063.html~~
Federal Register https://www.federalregister.gov/
Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook
HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, PIH 2023-27 https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
HOTMA Voucher Final Rule https://www.federalregister.gov/documents/2024/05/07/2024-08601/housing-opportunity-through-modernization-act-of-2016-housing-choice-voucher-hcv-and-project-based
~~Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice~~ ~~https://www.hud.gov/sites/documents/DOC_8993.PDF~~
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System ~~https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF~~https://www.hud.gov/sites/documents/17-12pihn.pdf
VAWA Resources https://www.hud.gov/vawa

CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

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

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

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

PART I: THE PHA

1-I.A. OVERVIEW

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

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

The tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Metropolitan Council Housing and Redevelopment Authority for the jurisdiction of the Counties of Anoka, Carver, Hennepin, excluding Minneapolis, Bloomington, St. Louis Park, Richfield, Plymouth and Ramsey, excluding St. Paul.

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

Formal actions of the PHA are taken through written resolutions, adopted by the Council and entered into the official records of the PHA.

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

1-I.C. PHA MISSION

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

PHA Policy

- The Metro HRA's mission is to assist families with securing safe, affordable housing in communities of their choice that allows them to thrive ~~Metro HRA's mission is to provide decent, safe and affordable housing opportunities; to encourage housing choice throughout the region including areas of high opportunity; to foster family~~

~~stability and promote self sufficiency for people with low wealth.~~

1-I.D. THE PHA'S PROGRAMS

The following program is included under this administrative plan:

- Housing Choice Voucher program.
- This Administrative Plan will also be utilized in any area of the targeted or special programs administered by the PHA that are not covered by specific program regulations/ guidance.

1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

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

- 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 habitable ~~sanitary~~ housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA'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 PHA's support systems and commitment to our employees and their development.

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

PHA Policy

The PHA will reference as needed the following Metropolitan Council policies and procedures:

- The Metropolitan Council Employee Policy Procedure, Code of Ethics, Section/Number 4-6, and
- Code of Ethics for Metropolitan Council Members, adopted 9/26/91

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

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

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent

limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

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

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

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

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

- The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. HUD issued a revised version of the notice on February 2, 2024.
- The Final Rule implementing streamlining changes to the HCV and PBV programs was published on May 7, 2024, and codified certain provisions in Sections 101, 105, 106, and 112 of HOTMA as well as incorporating changes from the NSPIRE final rule. Technical amendments to the rule were published December 8, 2025.

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program which are

included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

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

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

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

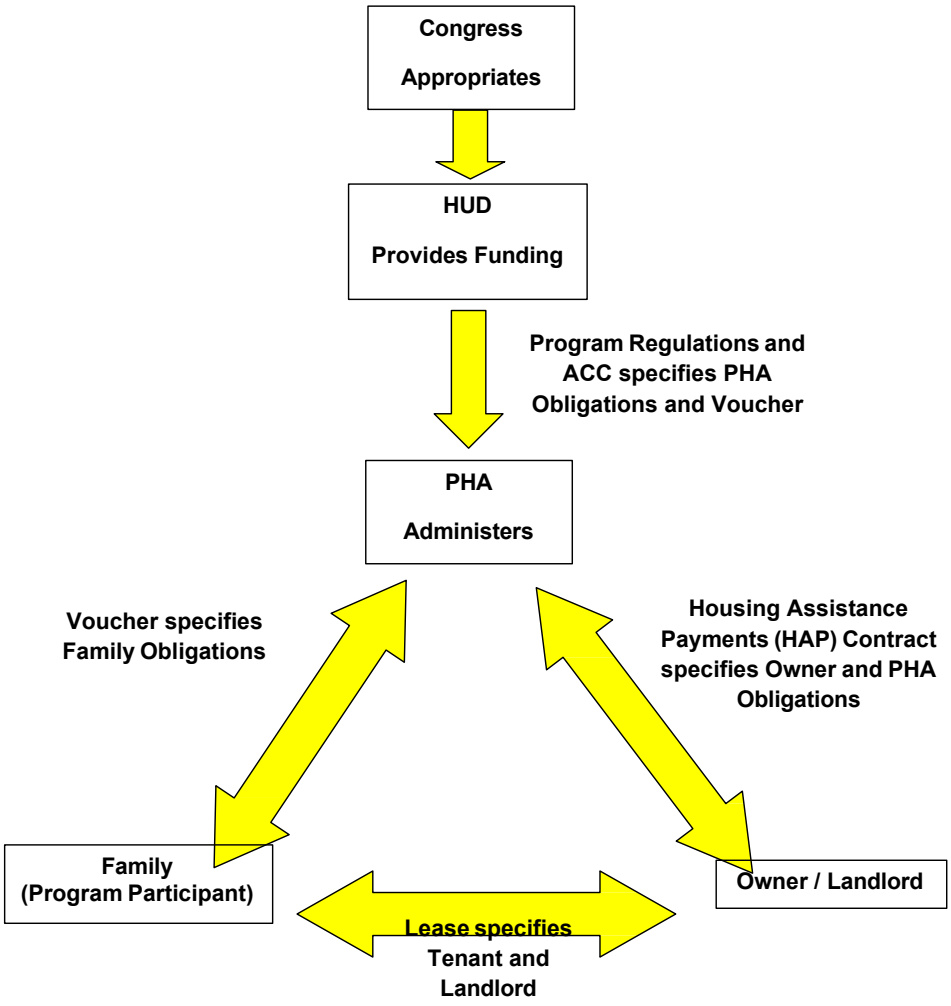
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships



What does HUD do? HUD has the following major responsibilities:

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

What does the PHA do?

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

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

What does the Owner do? The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful

enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with minimum quality standards developed by HUD in accordance with 24 CFR 5.703 (including any variations approved by HUD for the PHA) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do? The family has the following responsibilities:

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

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III. THE HCV ADMINISTRATIVE PLAN

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

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

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

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

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN

[24 CFR 982.54 and 24 CFR 983.10]

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

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions ~~or suspensions~~ of the voucher term. If the PHA allows extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and hwo the PHA determines the length of any extension ~~'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy.~~ (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards

for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12) or other factors in accordance with 982.552, 982.554, and 982.555; and policies concerning residency by a foster child, foster adults, or live-in aide, including defining when PHA consent for occupancy by a foster child, foster adult, or live-in aide must be given or may be denied (Chapter 3 and 12);

- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including whether the PHA has voluntarily adopted the use of Small Area Fair Market Rents (SAFMRs) (Chapter 16);
- Policies on administering decreases and increases in the payment standard during the HAP Contract term (Chapter 6);
- If the PHA establishes different payment standard amounts for designated areas within its jurisdiction, including exception areas, the criteria used to determine the designated areas and the payment standard amounts for those designated areas (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP Contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition, the frequency of determination of family income, and income-determination practices, including whether the PHA will accept a family declaration of assests (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the Council to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections, including any deficiency that the PHA has adopted as life-threatening deficiency that is not a HUD-required life-threatening deficiency (Chapter 8); ~~and~~

- For PHAs that adopt the initial inspection non-life-threatening deficiency option, the PHA's policy on whether the provision will apply to all initial inspections or a portion of initial inspections, the PHA's policy on whether the provision will be applied to only some inspections and how the units will be selected, and the PHA's policy on using withheld HAP funds to repay an owner once the unit is in compliance with housing qualify standards (Chapter 8);
- For PHAs that adopt the alternative inspection provision, the PHA's policy on how it will apply the provision to initial and periodic inspections; the specific alternative inspection method used by the PHA; the specific properties or types of properties where the alternative inspection method will be employed; and, for initial inspections, the maximum amount of time the PHA will withhold HAP if the owner does not correct the HQS deficiencies within the cure period, and the period of time after which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract (Chapter 8);
- The PHA's policy for charging a reinspection fee to owners (Chapter 8);
- The PHA's policy for withholding HAP for units that do not meet housing quality standards (Chapter 8);
- The PHA's policy on assisting families with relocating and find a new unit (Chapter 10);
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3);
- Whether the PHA will allow the family to submit more than one Request for Tenancy Approval at a time (Chapter 9);
- In the event of insufficient funding, taking into account any cost-savings measures taken by the PHA, a description of the factors the PHA will consider when determining which HAP contracts to terminate first (e.g., prioritization of PBV HAP contracts over tenant-based HAP contracts or prioritization of contracts that serve vulnerable families or individuals) (Chapter 12); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

If a PHA exercises its discretion to operate a PBV program, the PHA's administrative must also include the PHA's local policies on PBV-related matters over which the PHA is exercising its policymaking discretion. At a minimum, the administrative plan must include the following PHA policies related to PBV, as applicable. All policies listed below may be found in Chapter 17.

- The definition of a *project*;
- The program cap, including a description of the types and availability of services that will qualify units under the supportive services exception and the PHA's policy limiting Family Unification Program (FUP) assistance normally available for eligible families and youth;
- A description of the circumstances under which the PHA will use the competitive and noncompetitive selection methods and the procedures for submission and selection of PBV proposals;
- The project cap, including the PHA's policy limiting FUP assistance normally available for

eligible families and youth, and a description of the types and availability of services that will qualify units under the supportive services exception from the project cap;

- Site selection standards, including the PHA's standards for deconcentrating poverty and expanding housing and economic opportunities, and the PHA's site selection policy;
- PHA PBV inspection policies, including the timing of an initial inspection of existing housing; whether the PHA adopts for initial inspection of PBV existing housing the non-life-threatening deficiencies option, the alternative inspection option, or both, and whether the PHA adopts for periodic inspection of PBV housing the alternative inspection option; the frequency of periodic inspections; and any verification methods other than on-site inspection for different inspection types or for different deficiencies;
- A description of the circumstances (if any) under which the PHA will establish additional requirements for quality, architecture, or design of PBV housing at the time of initial rehabilitation or new construction;
- The PHA's policy on the form and manner in which the owner must submit evidence and certify that work has been completed;
- For rehabilitated housing developed after HAP contract execution, a description of the circumstances (if any) under which the PHA will enter a PBV HAP contract for rehabilitated housing that allows for development activity to occur after HAP contract execution; the timing of the initial inspection; the form and manner of owner notifications of changes in the status of contract units; and the period for compliance (if any) for development activity that has not been completed by the deadline;
- The PHA's policy on amending PBV HAP contracts to substitute or add contract units;
- The PHA's housing quality policies, including a description of the circumstances (if any) under which the PHA will establish additional requirements for continued compliance with quality, architecture, or design of PBV housing during the term of the HAP contract; the PHA's policy on the conditions under which it will withhold HAP and the conditions under which it will abate HAP or terminate the contract for units other than the unit with housing quality standards deficiencies; and the PHA's policy on assisting families with relocating and finding a new unit;
- A description of the PHA's waiting list policies for admission to PBV units, including any information on the owner waiting list policy;
- A description of the PHA's policy on whether to conduct tenant screening and offer information to an owner;
- The PHA's policy on continued housing assistance for a family that occupies a wrong-sized unit or a unit with accessibility features that the family does not require;
- The PHA's policy on a family's right to move, including the form of tenant-based rental assistance that the PHA will offer families, and the procedures for tenants to request tenant-based rental assistance to move;
- The PHA's policy regarding which options it will take if a unit is no longer qualified for excepted status or the increased program cap;

- The PHA's policy regarding continued occupancy of a unit under the increased program cap for supportive housing for persons with disabilities or elderly persons and units excepted based on elderly or disabled family status after a change in family composition removing the elderly family member or family member with a disability;
- The PHA's policy regarding the PHA-determined amount it will use to calculate rent to owner;
- The PHA's policy on the required timing and form of owner requests for a rent increase;
- The PHA's policy on providing vacancy payments, including the required form and manner of requests for vacancy payments;
- The PHA's policy on utility reimbursements; and
- The PHA's policy on applying SAFMRs to its PBVs.

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

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

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

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

PHA Policy

- The PHA will review and update the plan as needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

~~Exhibit 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS~~

~~Exhibit 2-2: ADDENDUM: SPECIFIC STEPS TO AFFIRMATIVELY FURTHER FAIR HOUSING~~

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- 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~~s~~ 11063~~ and 13988~~
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- ~~The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20~~
- Violence Against Women Act

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

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

2-I.B. NONDISCRIMINATION

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

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

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

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [~~FR Notice 02/03/12; Executive Order 13988~~24 CFR 5.105(a)(2)]. Enforcement of the *Equal Access to Housing in HUD Program Regardless of Sexual Orientation or Gender Identity Final Rule* has been halted. HUD has proposed the elimination of the Equal Access Rule regulation at 24 CFR 5.105(a)(2) to harmonize HUD regulations with Executive Order 14168. HUD has already rescinded Notice PIH 2014-20 regarding Equal Access Rule enforcement and has removed references to the rule from the *HCV Guidebook*. As of Spring 2026, elimination of the regulation is currently under review by OMB.

The PHA will not use any of these factors to:

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

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of

neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing Discrimination Complaints

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

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

PHA Policy

- Applicants or participants who believe that they have been subject to unlawful discrimination may notify the PHA either orally or in writing.
- The PHA will investigate and attempt to remedy discrimination complaints made against the PHA. The PHA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.
- The PHA will keep a record of all complaints, investigations, notices, and corrective actions (See Chapter 16).

~~**Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**~~

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

~~PHA Policy~~

- ~~Applicants or participants who believe that they have been subject to unlawful discrimination based on actual or perceived sexual orientation, gender identity, or marital status may notify the PHA either orally or in writing.~~
- ~~Within 10 business days of receiving the complaint, the PHA will provide a written~~

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

- ~~The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination based on actual or perceived sexual orientation, gender identity, or marital status against the PHA or an Owner to determine if a violation occurred and implement a corrective action(s) to remedy the discrimination.~~
- ~~Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.~~
- ~~The PHA will keep a record of all complaints based on actual or perceived sexual orientation, gender identity, or marital status, investigations, notices, and corrective actions. (See Chapter 16.)~~

VAWA Complaint Processing [Notice FHEO 2023-01]

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

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

PHA Policy

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

- The PHA will attempt to remedy complaints made against the PHA and will conduct an investigation into all allegations of discrimination.
- The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16).

PART II: POLICIES RELATED TO PERSONS WITH DISABIILITIES

2-II.A. OVERVIEW

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

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

PHA Policy

- The PHA will inform all applicants and participants, in writing, of their right to request a reasonable accommodation if any member of the household is a person with disabilities and requires specific arrangements or changes in order to fully utilize the Metro HRA programs and services. This will be included for intake and reexamination documents and notices of adverse action by the HRA.
- The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Applications and reexaminations to be completed by mail

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

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

2-II.D. VERIFICATION OF DISABILITY

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

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

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a

person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

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

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

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

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

regulations).

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

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

PHA Policy

- The PHA will respond, in writing, within ten (10) business days to a request for an accommodation.
- If the PHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PHA's decision through an informal review (if applicable) or informal hearing (see Chapter 16).
- If the PHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the PHA's operations), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.
- If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family, in writing, of its determination. The PHA will offer the family the right to an Informal Hearing if the condition of the reasonable accommodation request is an item eligible for an Informal Hearing per federal regulation.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

PHA Policy

- TTD/TTY (text telephone display / teletype) communication will be available. In addition, examples of alternative forms of communication include: sign language interpretation free of charge, alternative form upon request, and materials explained orally by staff.

2-II.G. PHYSICAL ACCESSIBILITY

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

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

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

As part of the briefing packet, ~~When issuing a voucher to a family that includes an individual with disabilities,~~ the PHA will include notice to families if the family includes a person with disabilities, the PHA will provide a current list of accessible units known to the PHA and will assist the family in locating an available accessible unit, and if necessary, other assistance in locating an available accessible dwelling unit [24 CFR 982.301(b)(12)].

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

PART III: ~~IMPROVING ACCESS TO SERVICES FOR PERSONS WITH~~SERVING LIMITED ENGLISH PROFICIEN~~T~~CY~~ (LEP)~~ PERSONS

2-III.A. OVERVIEW

[OAG Memo 7/14/25 and Executive Order 14224]

In March 2025, Executive Order 14224 revoked Executive Order 13166, which had directed agencies to enhance access to federal programs for persons with limited English proficiency (LEP) and required tailored guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. Executive Order 14224 also declared English as the official language of the United States.

In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The memo presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination. The memo states that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English. The OAG memo also states that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English-speaking persons that may apply to the PHA.

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

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

~~LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this~~

~~administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.~~

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

The PHA LEP Plan will be referenced as needed for LEP actions.

~~2 III.B. ORAL INTERPRETATION~~

~~The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.~~

PHA Policy

- PHA oral and written communications with families will generally be conducted in English. For applicants and participants who may require language assistance, the PHA will encourage families to bring an advocate, family member, friend, or other adult representative to assist in communications. The PHA will also utilize available resources such as bilingual staff, community volunteer resources, responsible use of artificial intelligence technology, and/or machine translation to assist families with communication.

- ~~The PHA will utilize a language line for telephone interpreter services.The PHA will provide free oral translation to LEP households for all appointments, phone calls or visits as requested by the applicant or participant.~~

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

~~2-III.C. WRITTEN TRANSLATION~~

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

~~PHA Policy~~

~~In order to comply with written translation obligations, the PHA will take the following steps:~~

~~The PHA provides free interpreter services upon request for all appointments, phone calls and at other times determined necessary by the PHA or as requested by the applicant or participant.~~

~~A Request for Interpreter form is included with application and recertification notifications translated in Spanish, Hmong, Arabic, Russian and Somali.~~

~~A language block is included in all written notifications.~~

~~The Metro HRA will utilize any HUD translated documents.~~

~~The Metro HRA will translate selected documents of vital importance into that language, as determined necessary.~~

~~2-III.D. IMPLEMENTATION PLAN~~

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

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

Commented [SP1]: All deleted this year.

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EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS

[24 CFR Parts 8.3, and 100.201]

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

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

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and

conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

EXHIBIT 2-2: ADDENDUM: SPECIFIC STEPS TO AFFIRMATIVELY FURTHER FAIR HOUSING

The Metropolitan Council is a stakeholder member of the Fair Housing Implementation Council (FHIC) established in July 2002 to affirmatively further fair housing through efforts to promote fair housing rights and fair housing choice. The FHIC has three sub-committees that focus on Fair Housing issues and how to improve shortcomings:

- Public Sector
- Homeownership
- Private Rental Housing

The FHIC members include the entitlement jurisdictions in the surrounding seven county metropolitan area which are required to complete an Analysis of Impediments to Fair Housing Choice.

To date the FHIC has worked on issues related to tenant screening, accessible housing, limited English proficiency, fair housing testing, fair housing enforcement, rental application fees, predatory lending, information and outreach. The FHIC will continue to pursue goals created as a result of the impediments identified in the jurisdiction's most recent Analysis of Impediments (AI), completed in 2009.

To work toward addressing the identified impediments the Metropolitan Council Housing and Redevelopment Authority (Metro HRA) has responded by:

1. Entering into a contract with an interpreter service provider. Letters sent by the HRA will include an interpreter request form as well as a statement in five languages (Spanish, Hmong, Arabic, Russian and Somali) plus English indicating the letter includes important information and the Metro HRA provides free interpreter services. Interpretation services are provided free of charge to all program participants and applicants. Additionally, the HRA worked with the jurisdictions and the 10 other housing authorities in the jurisdictions, identified the four most common and important forms used related to Section 8 administration, and had them translated into Spanish, Hmong, Arabic, Russian and Somali. These forms include: Declaration of Status 214, Authorization to Release Information HUD-9886-A, Things You Should Know, and the Housing Choice Voucher. In addition the Metro HRA will utilize HUD translated documents.
2. Agreeing to accept and administer additional Section 8 Preservation vouchers when opt-outs or prepayments cannot be averted.
3. Adopting no preferences related to residency or work requirements, and marketing programs to all racial and ethnic groups accomplishing a wait list and program participation that represents all populations residing in the metropolitan area.
4. Including in briefing materials the HUD Fair Housing It's your Right brochure.

5. Supporting financially the work of the HousingLink, private nonprofit organization offering a metro-wide clearinghouse which includes a listing of private market affordable vacancies updated weekly, an online housing directory and search tool to assist in identifying vacancies, an online inventory of all assisted housing including all units with handicap accessibility features.
6. Developing policies, procedures and forms to assist applicants and participants of the Housing Choice Voucher Program of their rights to request reasonable accommodations.
7. Adopting a Limited English Proficiency (LEP) plan.
8. Marketing available programs such as FSS and HOME to applicants and current participants of the Housing Choice Voucher Program.
9. Including a Request for Interpreter form with appointment packets and a language block on letters requesting action by program applicants and participants

Metropolitan Council HRA employment and business practices provide equal opportunity in all areas of employment and programs as stated in the Metropolitan Council Policies.

Metro HRA will monitor activity to promote its efforts to provide fair housing for all programs by reviewing/revising policy and procedure annually including reports and data available to the Metro HRA from computer data base, staff analysis and other available means.

CHAPTER 3: ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD

[24 CFR ~~982.201(c); FR Notice 02/03/12; Notice PIH 2014-20~~5.403; 24 CFR 5.100; and FR Notice 2/14/23]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person, an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together.

Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

- A family also includes two or more individuals who are not related by blood, marriage, adoption or affinity, (regardless of actual or perceived sexual orientation, gender identity or marital status) that live together in a stable family relationship
- A family also includes two or more individuals who live together as the result of a

Delegation of Parental Authority or the written permission of the parent or other person having custody of the child. [Minn. Stat. 524.5-.211 2016, Fair Housing Act 24 CFR 100.2]

- Each family must identify the individuals to be included in the family at the time of application and must notify the PHA if the family's composition changes.

Household

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

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY BREAK-UP

[24 CFR 982.315; Notice PIH 2017-08]

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

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

PHA Policy

- When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.
- If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

- In the absence of a judicial decision, or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list, or continue to receive assistance. In making its determination, the PHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) the interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse, (4) any possible risks to family members as result of criminal activity, and (5) the recommendations of social service professionals.
- Applicants and participants have the right to an Informal Review or Informal Hearing as stated in Chapter 16.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

3-I.D. HEAD OF HOUSEHOLD

[24 CFR 5.504(b)]

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

PHA Policy

- The family may designate any qualified family member as the head of household.
- The head of household must have the legal capacity to enter into a lease under state and local law.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

PHA Policy

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

A *cohead* 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.

PHA Policy

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

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

3-I.F. DEPENDENTS AND MINORS

[24 CFR 5.603]

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

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

Joint Custody of Dependents

PHA Policy

- Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 50 percent of the time.
- When more than one applicant or participant family is claiming the same dependents as family members, the family with primary physical 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 PHA will make the determination based on available documents such as tax documents, court orders, or school records.

3-I.G. FULL-TIME STUDENT

[24 CFR 5.603, HCV GB p. 5-29]

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

[24 CFR 5.100 and 5.403, FR Notice 02/03/12]

Elderly Persons: An elderly person is a person who is at least 62 years of age.

Near-Elderly Persons: A near-elderly person is a person who is at least 50-61 years.

Elderly Family: 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 as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY

[24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

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

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

Disabled Family

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

Even though persons with drug or alcohol dependencies are considered persons with

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

3-I.J. GUESTS

[24 CFR 5.100]

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

PHA Policy

- A guest can remain in the assisted unit no longer than 30 cumulative days during any 12 month period.
- Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.
- A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

[24 CFR 5.603]

Foster children or adults are permitted to live in an assisted unit with the PHA's permission. A PHA refusal to allow a family to have a foster child or foster children may constitute a violation of the familial status provisions of the Fair Housing Act.

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

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

Foster children and foster adults who are living with an applicant or who have been approved by the

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

PHA Policy

- A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of space standards as described in Section 8-I.F. of this policy.

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, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

PHA Policy

- Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. The individual is required to report any absence exceeding 30 consecutive days and provide documentation of the absence to establish a beginning and end date of absence.
- Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member.

Absent Students

PHA Policy

- When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member only if the family member can provide verification of a school campus address.

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

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

PHA Policy

- If a child has been placed in foster care, the PHA 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 Cohead

PHA Policy

- An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment, education, military deployment or other circumstance approved by the PHA will continue to be considered a family member.

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

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

PHA Policy

- An individual permanently confined to a nursing home or hospital may not be named family head, spouse, or cohead but may continue as a family member at the family's discretion. The family has a choice with regard to how the permanently confined individual's income will be counted. The family may elect either of the following:
- *Include* the individual's income and receive allowable deductions related to the medical care of the permanently confined individual.
- *Exclude* the individual's income and do not receive allowances based on the medical care of the permanently confined individual.

Return of Permanently Absent Family Members

PHA Policy

- An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.
- The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.
- ~~The family must request PHA approval for the return of any adult family members that the PHA previously determined to be permanently absent. The individual is subject to the eligibility and~~

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PHA Policy
An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.

~~screening requirements discussed elsewhere in this chapter.~~

3-I.M. LIVE IN AIDE

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

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

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

PHA Policy

- A family's request for a live-in aide must be made in writing. The PHA will verify the need for a live-in aide with a reliable, knowledgeable professional, such as a doctor, social worker, or case worker unless the disability-related need is apparent or known to the PHA. For continued approval, the family may be required to submit a new, written request at each annual reexamination. Determinations will be made based on the permanency of the initial request.
- A live-in aide must meet the following criteria:
    - The person is capable of and essential to providing the required care.
    - The person has never been a member of the household while the family was receiving housing assistance, and the family member has not made regular contributions to the household's income while the family has been receiving housing assistance.
    - There is no reason for the person to live in the unit other than to provide care for the person(s) with disabilities (would not be living in the unit except to provide the necessary support services).~~.~~
    - Is not obligated for the support of the person(s). The person intends to maintain separate finances and live independently from the assisted household except to provide the necessary care.
    - Will not be considered a remaining family member if the person with the disability leaves the unit or passes away.

- The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:
    - The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
    - The person commits drug-related criminal activity or violent criminal activity; or
    - The person currently owes rent or other amounts to the PHA or to another PHA in connection with Housing Choice Voucher or Public Housing assistance under the 1937 Act.
- The PHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201 Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4; 24 CFR 982.201(b)]
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily

housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.
- A low-income family is eligible for assistance under VASH [FR Notice 8/13/24]. See Chapter 19 of this policy for more information.

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

PHA Plan

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

Using Income Limits for Targeting [24 CFR 982.201]

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

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

3-II.B. CITIZENSHIP OR ELIGIBILE IMMIGRATION STATUS

[24 CFR 5, Subpart E]

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

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

Declaration [24 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, cohead, 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

U.S. citizens or U.S. nationals (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

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

PHA Policy

- Family members who declare citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.
- "A VAWA self-petitioner may Noncitizen victims can indicate that they are in "satisfactory immigration status" when applying for assistance. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance."

Eligible Noncitizens

Eligible noncitizens (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance

under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance. ~~The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).~~

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

When reviewing applicants for assistance, if a PHA formally makes a finding of fact or conclusion of law, supported by a determination from the Department of Homeland Security (DHS) or the Executive Office of Immigration Review (e.g., a Final Order of Deportation), that an individual is not lawfully present in the United States, then the PHA must provide to DHS a report of the person's name, address, and other identifying information that the PHA has. Note that a SAVE response of no service record or verification of an immigration status that makes the individual ineligible for housing assistance is not a finding of fact or conclusion of law that the individual is not lawfully present. At least four times annually, PHAs must provide such information to DHS. If a PHA has knowledge of an individual who is not lawfully present in the United States, they must provide a report to DHS within 45 days after the close of the appropriate calendar year quarter [HUD Secretary Letter 12/16/25].

Mixed Families

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

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

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

PHA Policy

- The PHA will not provide assistance to a family before the verification of at least one family member.
- When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice of the determination.
- The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.
- Informal hearing procedures are contained in Chapter 16.

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

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

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

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

PHA Policy

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

3-II.C. SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and 5.218, Notice PIH 2018~~2~~-~~10~~24]

The applicant and all members of the applicant's household disclose the complete and

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

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

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.230, 24 CFR 5.232, and HCV GB, p. 5-13]

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

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3) and 24 CFR 5.232(a)].

~~**Upon the PHA's HOTMA 102/1024 compliance date, the following on revocation of consent is added:**~~

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

PHA Policy

- The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance.

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]

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

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

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

Definitions

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

Dependent Child

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

Independent Student

PHA Policy

The PHA will consider a student "independent" from their parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

1. The individual is of legal contract age under state law.
2. The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S.

Department of Education's definition of independent student.

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

The individual is at least 24 years old by December 31 of the award year for which aid is sought

The individual is an orphan, in foster care, or a ward of the court 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

3. The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
4. The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If the PHA determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student*

for the purposes of using only the student's income for determining eligibility for assistance.

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

Institution of Higher Education

The PHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

Parents

PHA Policy

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

Person with Disabilities

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

Veteran

PHA Policy

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

Vulnerable Youth

PHA Policy

- A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:
    - The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
    - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent

jurisdiction in the individual's state of legal residence

- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or designee of the director
  - A financial aid administrator

Determining Student Eligibility

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

PHA Policy

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

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

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

Determining Parental Income Eligibility

PHA Policy

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the PHA will determine the income eligibility of the

student's parents as follows:

- If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

3-II.F. EIV SYSTEM SEARCHES

[EIV FAQs; EIV Systems Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

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

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

PHA Policy

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

occupied assisted unit.

Debts Owed to PHAs and Terminations

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

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

PHA Policy

- The PHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.
- The PHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

EIV Income Report

For each new admission, the PHA is required to review income information in EIV to confirm and validate family reported income within 120 after the admission information is transmitted to HUD. The PHA must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. A PHA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA. A family that does not meet the following eligibility criteria discussed in Parts I and II, must be denied assistance. In this section we will discuss other situation and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

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

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

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

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

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

Denial of assistance includes any of the following:

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

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

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction portability (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program ~~except as required by HUD in supportive housing PBA's.~~
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking if the applicant is otherwise qualified for assistance (see section 3- III G.)

3-III.B. MANDATORY DENIAL OF ASSISTANCE

[24 CFR 982.553(a);]

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

- Any member of the household has been evicted from federally-assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction

no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

PHA Policy

- The PHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past ~~3~~ three years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity is no longer living in the household

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

PHA Policy

- The PHA will consider any credible evidence or record of conviction of household members related to the use of illegal drugs or the abuse of alcohol.

- ~~Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.~~
-
- ~~If any household member has ever been convicted for the production or manufacture of Methamphetamine on the premises of federally assisted housing, the family will be denied assistance.~~
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family not meet the restrictions on net asset and real property ownership as required by 24 CFR 5.618.

Upon the PHA's HOTMA 102/104 compliance date, the following section on the asset limitation is added. The asset limitation does not apply until the PHA's HOTMA compliance date.

3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS

[24 CFR 5.618]

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

First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables
- ~~$100,000 for 2024, $103,200 for 2025~~

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

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

The PHA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
    - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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

- Does not meet the disability-related needs for all members of the family (e.g., physical

accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);

- Is not sufficient for the size of the family;

  PHA Policy

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

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

  PHA Policy

  - In general, the PHA defines a *geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The PHA will consider circumstantial details a family faces when determining whether a geographic hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR 982.553]

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

PHA Policy

If any household member has been convicted or adjudicated of any of the following criminal activities within the past three years or there is credible evidence of current criminal activity, the family will be denied assistance.

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse; or
- Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent)
- Evidence of such criminal activity includes, but is not limited to:
    - Credible evidence of current drug-related or violent criminal activity
    - Any felony convictions for drug-related criminal activity within the past three years
        - Minors with convictions on their record will be reviewed on a case-by case basis for consideration of eligible assistance.
- Any convictions of violent criminal activity within the past three years.
    - Minors with convictions on their record will be reviewed on a case-by case basis for consideration of eligible assistance.

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.F and 3-III.G. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide

not to deny assistance.

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

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

PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

PHA Policy

~~The PHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.~~

The Violence against Women Act (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant, immediate family member or affiliated individual is or has been a victim of domestic violence, dating violence, or stalking.

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

- The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the PHA.
- Any family member has been evicted from federally assisted housing in the last three years.
- The Metro HRA has terminated HCV assistance for cause in the last three years.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any PHA in connection with the HCV, ~~Certificate, Moderate Rehabilitation or public housing programs~~or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.
    - *Abusive or violent behavior towards PHA 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.

3-III.E. SCREENING

Screening for Eligibility

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

PHA Policy

- The PHA will access the BCA website to screen for initial eligibility
- The PHA will verify through a 3rd party screening company when BCA records indicate non-reported activity or when applicant or participant self-reports on application
- The PHA will verify through a 3rd party screening company if a household member reports living outside of Minnesota in the past three years

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

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

PHA Policy

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

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

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

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

PHA Policy

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

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

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

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, sexual assault, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

PHA Policy

- The PHA will inform owners of their responsibility to screen prospective tenants. The PHA will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

PHA Policy

- The PHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.
- *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

PHA Policy

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

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

- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

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

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

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

PHA Policy

- As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.
- After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

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

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

PHA Policy

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

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

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

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

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

PHA Policy

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

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

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

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

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for assistance or admission.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking

as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

Notification

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

PHA Policy

- The PHA acknowledges that a victim of domestic violence, sexual assault, dating violence, stalking, or human trafficking may have an unfavorable history (e.g a poor credit history, a record of previous damage to a unit, a prior arrest record) that would warrant denial under the PHA's policies.
- While the PHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.
- The PHA will include in its notice of denial the VAWA information described in Part 16-IX of this plan as well as including a copy of the form HUD-5382. The PHA will request that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

PHA Policy

- If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, sexual assault, dating violence, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in

accordance with Part 16-IX.D. of this plan.

Perpetrator Documentation

PHA Policy

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
  - Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
  - In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term "developmental disability" means a severe, chronic disability of an individual that:

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living,

  (VII) Economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) Infants and Young Children

  An individual from birth to age 9, inclusive, who has a substantial developmental

delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

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

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

Individual with Handicaps [24 CFR 8.3]

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

1) Physical or mental impairment includes:
    a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
    b. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
2) *Major life* activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
3) Has a record of such an impairment means has a history of, or has been misclassified as

having, a mental or physical impairment that substantially limits one or more major life activities.

4) Is *regarded as having an impairment* means:

   a. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

   b. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

   c. Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION

[20 U.S.C. 1001 and 1002]

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

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

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

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

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

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

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

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

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

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

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

(2) A public or nonprofit private educational institution in any State that, in lieu of the

requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

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

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

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

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

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

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

(2) Institutions outside the United States

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

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

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

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

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

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

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

I. Evaluate the standards of accreditation applied to applicant foreign medical schools; and

II. Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to

participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or

policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

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

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

(b) Proprietary institution of higher education

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

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

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

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

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

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

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

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

(c) Post secondary vocational institution

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

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

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

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

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

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

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

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

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

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

Part II: Managing the Waiting List. This part presents the policies that govern how the PHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE

[HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

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

PHA Policy

- The PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.
- When the waiting list is open, applications will only be accepted online. As a reasonable accommodation, applications may be requested in an alternative format.
- Applications must be complete in order to be accepted by the PHA for processing.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

~~**Limited English Proficiency**~~

~~PHAs are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides PHA policies relating to ensuring access to people with limited English proficiency (LEP).~~

4-I.D. PLACEMENT ON THE WAITING LIST

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

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

Eligible for Placement on the Waiting List

PHA Policy

- Applicants will verify their waiting list placement status via online system.
- Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.
- Applicants will be placed on the waiting list according to any preference for which they qualify, and the date and time their complete application is received by the PHA or as a result of a lottery or random drawing for waiting list placement by date and time as specified in a public notice.
- Other forms of communication will be considered under extenuating circumstances or as a reasonable accommodation, persons with disabilities.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

[24 CFR 982.204 and 205]

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

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

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

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

PHA Policy

- The PHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

PHA Policy

- Families that apply for assistance from the HCV program will be offered the opportunity for project-based voucher units and Bring it Home rent assistance (see Chapter 20) as they come available.
- A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.
- If program funding is restricted at any time during the initial selection process, a family's placement on the waiting list will remain the same as initial application date and time. When funding resumes the selection process will resume accordingly.

See Chapter 17 for Project Based Voucher policy on organization and selection.

4-II.C. OPENING AND CLOSING THE WAITING LIST

[24 CFR 982.206]

Closing the Waiting List

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

Reopening the Waiting List

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

PHA Policy

- The PHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.
- The PHA will give public notice by publishing the relevant information in suitable media outlets to be determined at the time of waiting list opening.

4-II.D. FAMILY OUTREACH

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

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

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

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

- While the family is on the waiting list, the family must update all changes in contact information via online portal including current residence, e-mail and mailing address.
- The Metro HRA will consider other forms of communication under extenuating circumstances, to assist a family with LEP or as a reasonable accommodation, persons with disabilities.

4-II.F. UPDATING THE WAITING LIST

[24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

PHA Policy

- The waiting list will be updated periodically to ensure that all applicants and applicant information is current and timely.
- Waiting list updates will be completed via online portal. Other forms of communication will be considered under extenuating circumstances, to assist a family with LEP or as a reasonable accommodation, persons with disabilities.
- If the family fails to update their information in the time requested, the family will be removed from the waiting list without further notice.
- If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error or as reasonable accommodation for a person with disabilities.
- If a family contacts the PHA within 60 days of removal, the family will be placed back on the waiting list.

Removal from the Waiting List

PHA Policy

- If at any time an applicant family is on the waiting list, the PHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.
- If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, the PHA will send notification to the family. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the PHA's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

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

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

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

Targeted Funding [24 CFR 982.204(e)]

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

PHA Policy

The PHA administers the following types of targeted funding:

Non-Elderly Disabled (NED) Vouchers

- This program enables families having a person with disabilities to lease affordable private housing of their choice and also may assist persons with disabilities who often face difficulties in locating suitable and accessible housing on the private market.
- NED vouchers will be issued to qualified applicants on the PHA's Housing Choice

Voucher waiting list according to the selection procedures outlined in Chapter 4.

Family Unification Program (FUP)

- This program assists families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.

Foster Youth to Independence Initiative (FYI)

- The Foster Youth to Independence Initiative is a cross-system collaborative effort to prevent and end homelessness among youth with a current or prior history of child welfare involvement. The program is a collaboration to identify, target and connect eligible youth at-risk of or experiencing homelessness to housing and related supports.

Veterans Affairs Support Housing (VASH) Program

- This program combines HUD Housing Choice Voucher program rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA).

Mainstream Voucher Program

This program provides funding to assist non-elderly persons with disabilities who are:

- Transitioning out of institutional or other segregated setting,
- At serious risk of institutionalization,
- Homeless, or
- At risk of becoming homeless

Emergency Housing Vouchers (EHV)

Emergency Housing Vouchers are tenant-based rent assistance for individuals and families who are experiencing homelessness, at risk of homelessness, fleeing or attempting to flee domestic violence or were recently homeless.

- Referrals much come through the County Continuum of Care Coordinated Entry System.
- The Counties and their service partners provide supportive services.
- The vouchers sunset after September 30, 2023. Vouchers continue to be provided to new families upon turnover if prior to the sunset date.

Other targeted funding, if awarded new funding.

Regular HCV Funding

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

4-III.C. SELECTION METHOD

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

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

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

PHA Policy

The HRA has adopted the following category of preferences:

- Insufficient Funding (4-5 points)

  Preference will be given to any family that has been terminated or is at imminent risk of being terminated from the following HRA programs due to insufficient funding:

  - Housing Choice Voucher
  - Project Based Voucher
  - Housing Opportunities for Persons with Aids
  - Housing Trust Fund
  - Emergency Housing Vouchers

- Mobility Demonstration Program (3 points)

  The PHA, in partnership with Minneapolis Public Housing Authority, was awarded funds under the Housing Choice Voucher (HCV) Mobility Demonstration Program. The program will assist families with children in gaining better access to low-poverty neighborhoods with high-performing schools and other strong community resources.

  The program will offer mobility-related support to a selected group of HCV holders to determine what services are most effective in helping families move and achieve

success. The program will include an independent evaluation and research component.

  - Preference will be given to families with at least one child aged 13 or under that live in census tracts with a family poverty rate of 30 percent or higher.
  - If the PHA does not have enough families on the waiting list that meet the required preference, the PHA will select the next available family with at least one child 17 or under from the waiting list.
  - This preference will be applied to a limited number of families each year in accordance with the enrollment schedule of the HCV Demonstration Program.
  - The Metro HRA has a Joint Powers Agreement with MPHA to eliminate the portability requirement. Each agency will administer their own vouchers regardless of where the family chooses to live.
  - Participants enrolled in the Mobility Demonstration Program that move to Minneapolis will be assigned bedroom space according to the MPHA's subsidy standards.
  - Small Area Fair Market Rents (SAFMR) will be used for participants enrolled in the Mobility Demonstration Program that move to Minneapolis.

- "Move Up" from Permanent Supportive Housing (2 points)

  The PHA will partner with the Hennepin, Ramsey and Suburban Metro Area Continuum of Care (CoC) to identify individuals and families ready to transition or "move up" from Permanent Supportive Housing (PSH) units. These are families that were homeless prior to entry into the PSH program and who continue to need a rental subsidy but no longer require intensive supportive services.

  - The PHA will accept referrals from the CoC's Coordinated Entry Program. Move-Up applicants will be identified by PSH based on Move-Up eligibility criteria:
    - A minimum of two years living in Permanent Supportive Housing
    - Ongoing source of income
    - Paid rent on-time and in full every month for at least ten of the past twelve months or are in compliance with the Housing Supports program.
    - Connected to mainstream or community resources
  - The PHA will allocate up to 40 Housing Choice Vouchers per calendar year toward the Move-Up Preference. When these vouchers have been utilized in a calendar year, no additional priority will be given under this category.

- Homework Starts with Home Preference (1 point)

  The PHA will partner with suburban Ramsey County school districts, Solid Ground and

Suburban Ramsey/Washington County Family Collaborative (program partners) to provide rent assistance to people of underserved and under-supported populations including black, indigenous and people of color, and lesbian, gay, bisexual, transgender, queer or questioning and Intersex (LGBTQI) students and families who are homeless, doubled up or at imminent risk of homelessness.

The PHA will partner with Anoka County school districts to provide rent assistance and support services to eligible youth and families referred by community partners. The program is fundamentally committed to be anti-racist, supportive to underserved and under-supported populations through person-centered and progressive engagement services.

- The HSWH program partners provide rent subsidy and support services to enrolled families for 18 months.
- The PHA will accept referrals from the program partners for families whose HSWH rent assistance has ended and who continue to have a need for rent assistance.
- The program partners will continue to provide support services as the families transition to the Housing Choice Voucher program and for a two-year period thereafter.
- The PHA will allocate up to twenty (20) Housing Choice Vouchers per calendar year toward the Ramsey/Washington County HSWH partnership. When these vouchers have been utilized in a calendar year, no additional priority will be given under this category.
- The PHA will allocate up to ten (10) Housing Choice Vouchers per grant year toward the Anoka County HSWH partnership. When these vouchers have been utilized in the grant year, no additional priority will be given under this category.

- American Indian Preference

  The PHA will offer a preference for 10% of waiting list placements to households whose head identifies as American Indian.

- Residency Preference (1 point)

  - The PHA will complete a random drawing for waiting list placement, awarding 95% of remaining waiting list placements to applicants who reside, work or have been hired to work or go to school full-time in the seven-county metro area. The remaining 5% of waiting list placements will be awarded to any other applicant.

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

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30% of the area median income, whichever number is higher to ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

PHA 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.

Order of Selection

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

PHA Policy

- Families will be selected from the waiting list according to their assigned date and time of application.
- Families that qualify for a specified category of program funding (targeted funding) or local preference may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding or a preference. However, within any targeted funding category or eligible preference category, applicants will be selected according to the assigned date and time their application is received.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR 982.554(a)].

PHA Policy

The PHA will electronically notify the family when it is selected from the waiting list. If the

family does not attend the first scheduled interview, they will be provided a second and final opportunity to attend. The notice will inform the family of the following:

- Interview appointment requirement
- Who is required to attend the interview
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

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

Other forms of communication will be considered under extenuating circumstances, to assist a family with LEP or as a reasonable accommodation, persons with disabilities.

4-III.E. THE ~~APPLICATION~~ ELIGIBILITY DETERMINATION PROCESS ~~INTERVIEW~~

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

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

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

PHA Policy

- Families selected from the waiting list are required to participate in an eligibility interview.
- The head of household must attend the interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.
- Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for ninety (90) days. If not, all household members have disclosed their SSNs at the next time the PHA is issuing vouchers, the PHA will issue a voucher to the next eligible applicant family on the waiting list.
- The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms,

providing required signatures, and submitting required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted.

- Any required documents or information that the family is unable to provide at the interview must be provided within ten (10) business days of the interview or the request by the PHA. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).
- An advocate, interpreter, or other assistant may assist the family with the application and the interview process.
- Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services upon request.
- Other forms of communication will be considered under extenuating circumstances or as a reasonable accommodation, persons with disabilities. If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will provide a second and final opportunity to attend the interview. Applicants who fail to attend two scheduled interviews without PHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

PHA Policy

- If the PHA determines that the family is ineligible, the PHA will send electronic notification of ineligibility. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).
- Other forms of communication will be considered under extenuating circumstances, to assist a family with LEP or as a reasonable accommodation, persons with disabilities.
- If the PHA determines the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with policies in Chapter 5.

CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program. ~~The PHA must take reasonable steps to ensure meaningful access by persons with Limited English proficiency.~~

5-I.B. BRIEFING

[24 CFR 982.301]

Notification of Briefing

The PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups, or via remote briefing sessions.

PHA Policy

- Families will be notified of their eligibility for assistance at the time they are invited to a briefing.
- The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings as addressed in relevant policy elsewhere in this section.
- If the notice is returned by the post office with no forwarding address, the applicant will be denied, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated.

In-person briefings

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

PHA Policy

- In-person briefings will be conducted in group meetings.
- The head of household is required to attend the briefing. If the head of household is unable to attend, the PHA may approve another adult family member to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate PHA staff person.
- Briefings will be conducted in English. The PHA will provide free interpretation services (see Chapter 2).

Attendance

PHA Policy

- Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. Applicants who fail to attend two scheduled briefings, without prior PHA approval, will be denied assistance (see Chapter 3).

Remote Briefings [Notice PIH 2020-32]

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

PHA Policy

- The PHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. If the PHA schedules a remote briefing, the PHA will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.
- In addition, the PHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. The PHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

Accessibility Requirements for Persons with Disabilities ~~and LEP Individuals~~

As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized

auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

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

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

PHAs may consider responsible use of artificial intelligence and machine translation to communicate with individuals who are limited English proficient. ~~Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.~~

Conducting Remote Briefings [Notice PIH 2020-32]

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

PHA Policy

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

be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

- The PHA will provide login information and/or conferencing call-in information and an electronic copy of the briefing packet via email before the briefing. The PHA will provide a paper copy of the briefing packet upon family request and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.
- The PHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities ~~and persons with LEP,~~ and is secure, including ensuring personally identifiable information (PII) is protected.
- The PHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.
- If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the PHA.

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction and any information on selecting a unit that HUD provides;
- An explanation of how portability works;
- ~~The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance; and~~
-
- An explanation of the advantages of areas that do not have a high concentration of low-income families.

The PHA may not discourage the family from choosing to live anywhere in the PHA's jurisdiction or outside the PHA's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.

The PHA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6 and 28 CFR part 35, subpart E, and must provide information on the reasonable accommodation process.

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

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

- The term of the voucher, and the PHA's policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family and how the PHA determines total tenant payment for a family.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and an explanation of how to request approval.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards and when the PHA will consider granting exceptions as allowed by 24 CFR 982.402(b)(8), and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA).
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA).
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration. [www.HousingLink.Org.]
- Notice that if the family includes a person with disabilities, PHA is subject to requirements under 24 CFR 8.28(a)(3) to provide a current listing of accessible units known to the PHA, and if necessary, other assistance in locating an available unit [www.HousingLink.Org.]
- The family obligations under the program.

- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families, which may include access to accessible and high quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services.
- The HUD pamphlet on lead-based paint entitled "Protect Your Family from Lead in Your Home" [24 CFR 35.88].

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

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

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2017-12].

PHA Policy

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

- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act
- Requirements for notifying the PHA of any changes in income or family composition
- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380, notice of occupancy rights, and the form HUD-5382, domestic violence certification form, which contain information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of action a family must avoid and the penalties for program abuse.

- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

5-I.C. FAMILY OBLIGATIONS

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

See Chapter 12, Exhibit I, Statement of Responsibilities or HUD Housing Choice Voucher form HUD-52646.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of the voucher term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE

[24 CFR 982.402]

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under 24 CFR 5.703.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

PHA Policy

- The PHA will assign the first bedroom to head of household and their spouse, significant other or other adult household member of the same sex and generation.
- Thereafter, the PHA will assign one additional bedroom for each two (2) persons

regardless of sex, age or relationship.

- The following circumstances are exceptions:
  - An adult and minor child will not be required to share the first bedroom.
  - Live-in aides will be provided with their own bedroom. No additional bedroom is provided for the live-in aide's family members.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

PHA Policy

- The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size and must include appropriate documentation.
- Requests based on disability-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related need for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment may require updated verifications at annual reexamination.
- The PHA will notify the family of its determination. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE

[24 CFR 982.302]

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

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

The PHA must issue the family a voucher within 60 days of determining the family eligible [24 CFR 982.201(e)]. The income documentation must be dated within 120 days of when it was received by the PHA. However, for fixed-income sources, including Social Security benefits, the documentation must be dated within the appropriate benefit year.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

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

PHA Policy

- If program funding is restricted at any time during the initial selection process, family's placement on the waiting list will remain the same as the initial application date and time. When funding is sufficient the selection process will resume accordingly.

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

Voucher Term [24 CFR 982.303]

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

PHA Policy

- The initial voucher term will be 120 calendar days unless the HRA determines based on market conditions that a greater or lesser term is warranted.
- The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an

extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

PHA Policy

- The PHA will approve one extension for a period of 60 days in the following circumstances:
  - It is necessary as a reasonable accommodation for a person with disabilities.
  - It is necessary due to reasons beyond the family's control, as determined by the PHA. The PHA will consider other extenuating circumstances, documented, reviewed and approved by the PHA in addition to requests as a reasonable accommodation. The following is a list of extenuating circumstances the PHA may consider when making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
    - Serious illness or death in the family
    - Family Emergency
    - Obstacles due to employment
    - Whether the family already submitted a RTA that was not approved
    - Whether the family size or other special circumstances make it difficult to find a suitable unit
- Any request for additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support their request or obtain verification from a qualified third party.
- All requests from extensions to the voucher term must be made in writing and submitted to the PHA prior to the expiration date of the voucher (or extended term of the voucher).
- The PHA will decide whether to approve or deny an extension request.

Suspensions of Voucher Term [24 CFR 982.303(c)]

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

PHA Policy

- When a Request for Tenancy Approval and a proposed lease are received by the PHA, the term of the voucher will be suspended while the PHA processes the request.
- When the PHA denies a request for tenancy, the family will be notified that the clock on the voucher term has restarted. The notice will include the new expiration date of the voucher.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

PHA Policy

- The family must submit a Request for Tenancy Approval (RTA) before the voucher expires. If the voucher expires prior to the submittal of an RTA, the PHA will require the family to reapply for assistance unless there is remaining, suspended time on the voucher.

CHAPTER 6.A: INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

This chapter is applicable prior to the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 6.B. of the administrative plan.

The program regulations in the current Code of Federal Regulations (CFRs) were updated for HOTMA on January 1, 2024. As a result, pre-HOTMA regulations from 2023 are no longer available on the electronic CFRs. However, since full HOTMA implementation is still pending, the pre-HOTMA regulations continue to apply to some elements of the program, and this chapter makes references to both pre-HOTMA and HOTMA regulations where applicable. Where HOTMA regulations apply, citations in this chapter have been provided indicating that current HOTMA CFRs are applicable. For all other citations, the pre-HOTMA CFRs apply. The federal government archives previous versions of the CFRs, and PHAs may access them here: **https://www.govinfo.gov/app/collection/cfr/2023/title24**.

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established, HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

24 CFR 5.609

Annual income includes:

5.609 Annual income.
(a) Annual income means all amounts, monetary or not, which:
(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
(3) Which are not specifically excluded in paragraph [5.609(c)].
(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

- In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts for those portions of the regulations are provided in the exhibits at the end of this chapter as follows: Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (as updated for HOTMA per Notice PIH 2024-38) (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- The Effect of Welfare Benefit Reduction (Exhibit 6-4)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7A.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

SUMMARY OF INCOME INCLUDED AND EXCLUDED BY PERSON	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].

Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

PHA Policy

- Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. The individual is required to report any absence exceeding 30 consecutive days and provide documentation of the absence to establish a beginning and end date of absence. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

- When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member only if the family member can provide verification of a school campus address.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

PHA Policy

- If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. The PHA has discretion to determine whether to count absent family members as temporarily or permanently absent after three consecutive years.

Absent Head, Spouse, or Cohead

PHA Policy

- An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment, school or military deployment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

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

PHA Policy

- If there is a question about the status of a family member, the PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.
- ~~When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.~~

Joint Custody of Dependents

PHA Policy

- Dependents that are subject to a joint custody arrangement will be considered a

member of the family for subsidy size determination, if they live with the applicant or participant family more than 50 percent of the time.

- When more than one applicant or participant family is claiming the same dependents as family members, the family with primary physical 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 PHA may make the determination based on available documents such as court orders, school records, or an IRS tax return showing which family has claimed the child for income tax purposes, or other credible documentation.

Caretakers for a Child

PHA Policy

- The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions:
  (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
  (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a guest for 90 days. After the 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 PHA will extend the caretaker's status as an eligible guest
  (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
  (4) During any period that a caretaker is considered a guest, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.
- The PHA will monitor these situations at 90-day intervals.

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) dated within 120 days of the date received by the PHA to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data. The PHA may also accept a statement dated within the appropriate benefit year for fixed income sources.

PHA Policy

PHA Policy

1. PHA will review the EIV Income Report to confirm/validate tenant-reported income;
2. PHA will print and maintain an EIV Income Report in the tenant file;
3. PHA will obtaining current acceptable tenant-provided documentation to supplement EIV information;
    - Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant.(See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.)
4. PHA will use current tenant-provided documentation and/or third-party verification to calculate annual income.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

When the PHA 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 PHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the PHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within 60 days of the reexamination interview date.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project earnings.

~~**Anticipating Annual Income** [24 CFR 5.609(c)(1)]~~

~~At initial occupancy and for an interim reexamination for family income, the PHA is required to use anticipated income (current income) for the 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.~~

~~PHA Policy~~

- ~~When the PHA cannot readily anticipate income based on current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the 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 decisions will be documented in the file. In all such cases, the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.~~
- ~~In all cases, the family file will be documented with a clear record of the reason for the decision as to how the PHA annualized project income.~~

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

~~**Known Changes in Income**~~

~~If the PHA verifies an upcoming increase or decrease in income at admission or interim reexamination, annual income will be calculated by applying each income amount to the appropriate part of the 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 PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 11.~~

~~**Calculating Annual Income at Annual Reexamination** [24 CFR 5.609(c)(2); Notice PIH 2023-27]~~

~~At annual reexamination, except where the PHA uses a streamlined income determination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amounts of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.~~

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27; Notice PIH 2024-38]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609(b)(24) as updated for HOTMA].

Earned income means income or earnings from wages, tips, salaries, or other employee compensations, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100 as updated for HOTMA].

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b) as updated for HOTMA]. Income earned as a day laborer is not considered nonrecurring income.

A seasonal worker is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b) as updated for HOTMA]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

PHA Policy

- The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

- For persons who regularly receive bonuses or commissions, the PHA will verify and then average the amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the PHA will use the prior year amounts. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer and the file documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].

Types of Earned Income Not Counted in Annual Income

Earnings of a Minor [24 CFR 5.609(b)(3) as updated for HOTMA]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14) as updated for HOTMA]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

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(b)(8) as updated for HOTMA]. (See Eligibility chapter for a full discussion of live-in aides.)

~~**6 I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES**~~

~~[24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]~~

~~HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participation in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24- month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.~~

~~**Calculation of the Disallowance**~~

~~Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.~~

~~**Original Calculation Method**~~

~~**Initial 12-Month Exclusion**~~

~~During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.~~

~~PHA Policy~~

- ~~The initial EID exclusion period will begin on the first reexam following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings. PHA will complete an interim reexam to reduce or remove exclusion amount when initial and phase-in exclusion periods end.~~

~~**Second 12-Month Exclusion and Phase-In**~~

~~During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.~~

~~PHA Policy~~

- ~~During the second 12-month exclusion period, the PHA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.~~

~~**Lifetime Limitation**~~

~~The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstance will a family member's exclusion period continue past January 1, 2026.~~

6-I.E. BUSINESS INCOME

[24 CFR 5.609(b)(28) as updated for HOTMA; Notice 2023-27]

Annual income includes "the net income from the operation of a business or profession." *Net income* is gross income minus business expenses that allow the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is

reimbursement of cash or assets invested in the operation by the family."

PHA Policy

- To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535/Schedule C], unless a topic is addressed by HUD regulations or guidance as described below.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609(b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to self-employment tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b) as updated for HOTMA]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income and is therefore included in annual income unless otherwise excluded by regulation.

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

PHA Policy

- *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

PHA Policy

- *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

PHA Policy

- Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. The household must provide adequate documentation to support the initial loan or contribution. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

PHA Policy

- If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference. If the difference cannot be adequately documented, the family's share of income will be consistent with their share of ownership.

~~**Assets Owned by a Business Entity**~~

~~If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].~~

6-I.FG. STUDENT FINANCIAL ASSISTANCE

[FR Notice 2/14/23 and Notice PIH 2023-2724 CFR 5.609(b)(9)]

Introduction

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. For public housing residents, all income received under Title IV of the HEA must be excluded from income. Other student financial assistance may be included depending on the students actual covered costs to For Section 8 programs, including HCV, however, for over 10 years HUD appropriations have included a provision that for Section 8 students who are age 23 and under and without dependent children, any amounts received in excess of tuition and any other required fees and charges must be considered income. Under HOTMA, HUD has interpreted this limitation to apply when the student is the head of household or spouse, but not when the student resides with their parents [71 FR 18146].

For any funds from a year where HUD's appropriations continue to include this Section 8 student financial assistance limitation, if the student does not reside with their parents is the head of household, cohead, or spouse, and is under the age of 23 or without dependent children, then both the assistance received under Title IV HEA and other student financial assistance received by the student is included as income to the extent that it exceeds the total of tuition and any other required fees and charges.

In contrast, student financial assistance received by a Section 8 student who is the head of household, spouse, or cohead, and is over the age of 23 with dependent children, or a student who resides with their parents in a Section 8 unit, is governed by the HOTMA student rule, which is described below.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance for all Section 8 students defaults to the methodology for public housing.

HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under Section 479B of the Higher Education Act of 1965 (Title IV of the HEA) which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;

- Federal Perkins Loans;
- Income earned in employment and trainings programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
    - The Higher Education Tribal Grant
    - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

Actual covered costs are defined as the actual cost of:

- Tuition, books, and supplies;
    - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head or household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other financial assistance must be expressly:

- For tuition, books, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head or household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The federal government
- A state, tribal or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed; (example: a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amounts of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

~~There are two steps required as part of the calculation for Section 8 students. First, determine the student's relationship to the household, age, and whether they have dependent children. Second, calculate whether any excess student financial assistance should be included in the family's income.~~

~~If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance is considered when determining the student's total financial aid amount. Subtract the total tuition plus required fees and charges from the total student financial assistance (Title IV HEA assistance and any other student financial assistance). If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance is included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.~~

The formula for calculating student financial assistance ~~If the student either lives with their parents or is over 23 with dependent children, then the calculation will use the HOTMA methodology for calculating financial assistance, which~~ always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance

received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining financial student financial assistance is considered income.

PHA Policy

- ~~If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance will be considered when determining the student's total financial assistance to be included in annual income. The PHA will use Notice PIH 2015-21 as a guide to determine the total amount of the student's tuition plus required fees and charges. The PHA will subtract the total tuition plus required fees and charges from the total student financial assistance. If the result is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges will be included in annual income.~~

~~Example 1~~

- ~~Actual covered costs: $20,000~~
- ~~Title IV HEA assistance: $10,000~~
- ~~Other student financial assistance: $15,000~~
- ~~Total student financial assistance: $10,000 + $15,000 = $25,000~~
- ~~Included income: $25,000 in financial assistance – $20,000 tuition and required fees = $5,000~~

~~If a student is head, spouse, or cohead, and is over 23 with dependent children or lives with their parents, the following applies:~~

~~If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.~~

- If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will

include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under "other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.G. PERIODIC PAYMENTS

[PIH 2023-27]

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end

date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, of yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b) as updated for HOTMA, and thus they are included in annual income.

Insurance payments and settlements for personal property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Lump-Sum Payments for the Delayed Start of a Period Payment [24 CFR 5.609(b)(16) as updated for HOTMA]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

PHA Policy

- The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by regulation), such as unemployment or welfare assistance.
- When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.
- If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider where the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 11. If not, the PHA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26)~~; Notice PIH 2023-27~~ as updated for HOTMA]

Any distribution of periodic payments from a retirement account is included in annual income at the time they are received by the family.

~~Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not consider actual income from assets.~~

~~However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.~~

~~An asset move to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.~~

Social Security Benefits [Notice 2023-27]

The PHA is required to use the gross benefit amount to calculate annual income for Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which the federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits.

Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of income prior to the reduction to determine a family's annual income.

PHA Policy

- Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefits amount until the overpayment is paid in full, the PHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

6-I.I. NON-RECURRING INCOME

[24 CFR 5.609(b)(24) as updated for HOTMA and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to asset with utilities;
- Payment for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) last no longer than 180 days and not cumulating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(vi)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby shower, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other

contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.I. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME

[24 CFR 5.609(b)(19) as updated for HOTMA]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.J. CIVIL RIGHTS SETTLEMENTS

[24 CFR 5.609(b)(25) as updated for HOTMA; FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of net family assets). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

6-I.K ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

[24 CFR 5.609(b) as updated for HOTMA; FR Notice 1/31/2024]

Other exclusions contained in 24 CFR 5.609(b) as updated for HOTMA and FR Notice 1/31/2024 include the following:

- Payments received from the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4) as updated for HOTMA].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609 (b)(5) as updated for HOTMA]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6) as updated for HOTMA].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7) as updated for HOTMA].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10) as updated for HOTMA].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10) as updated for HOTMA].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17) as updated for HOTMA]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an

educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20) as updated for HOTMA]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21) as updated for HOTMA]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlement, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced person that move from one federally subsidized housing unit to another federally subsidized unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23) as updated for HOTMA].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27) as updated for HOTMA].
- Amounts received by participants in other publicly assisted program which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii) as updated for HOTMA].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [24 CFR 5.609(b)(12)(i) as updated for HOTMA].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii) as updated for HOTMA].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a 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 participated in the training program unless those amounts are excluded under [24 CFR 5.609(b)(9)(i)]; [24 CFR 5.609(b)(12)(iv) as updated for HOTMA].

PHA Policy

- The PHA defines *training program* as a "learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].
- The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].
- In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earning reported on the family's most recently completed HUD-50058.
- End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by person who were persecuted during the Nazi era [24 CFR 5.609(b)(13) as updated for HOTMA].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15) as updated for HOTMA].
- Refunds or debates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20) as updated for HOTMA]
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility for benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published

when necessary [24 CFR 5.609(b)(22) as updated for HOTMA].

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

(a) The value of allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)). This exclusion also applies to assets.

(b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.

(c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteer under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.

- Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

(d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C.1626(c))

(e) Income derived from certain submarginal land of the United States that is help in trust for certain Indian tribes (25 U.S.C. 5506)

(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1))

(g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6)

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise*

Cobell et al. v *Ken Salazer et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interest of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C.1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).

(m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *in Re Agent Orange* product liability litigation, M.D.L. No. 38a (E.D.N.Y). This exclusion also applies to assets.

(o) Payments received under 38 U.S.C.(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C.12637(d)).

(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

(q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs uncured for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).

(r) Earned income tax credit (EITC) refund payments received on or after January 1, 2991 (26 U.S.C. 32(j)). This exclusion also applies to assets.

(s) Payments by Indian Claims Commission to the Confederated Tribes and Vands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.

(t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance program (20 U.S.C.1087uu). For Section 8 programs, only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges 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 if the individual is over the age of 23 with

dependent children (Pub. L. 109–115, section 327 (as amended)).

(u) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C.12637(d)).

(v) Any amount of crime victim compensation (that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).

(w) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by state, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(y) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

(z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

(aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement

proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

6-I.L. ASSETS

[24 CFR 5.609(b)(3); 24 CFR 5.603(b)]

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)] and Exhibit 6-34 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

PHA Policy

- Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file.

Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii) as updated for HOTMA; Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average.

- The PHA must review its passbook rate to ensure that it remains within .75 percent of the national average.

PHA Policy

- Total assets equaling $5000.00 or greater must be documented by current 3rd party verification to determine interest income.
- The HRA will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account. However if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. ~~However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.~~

~~**Withdrawal of Cash or Liquidation of Investments**~~

~~Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.~~

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

PHA Policy

- If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has

unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

- If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA 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 PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

PHA Policy

- The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.
- Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

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.

PHA Policy

- All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is

the result of a foreclosure or bankruptcy sale.

Family Declaration

PHA Policy

- Families must complete an "Tenant Information Form" at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

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.

PHA Policy

- In determining the value of a checking account, the PHA will use the average monthly balance for period of time provided by the third-party verification. The PHA attempts to obtain third party verification of a 6-month average balance, if the total assets exceed $5,000. If the financial institution does not provide 6-month average the PHA will use the average period provided.
- In determining the value of a savings account, the PHA will use the current balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.
- For tenant assets valuing less than $5,000, the PHA will accept participant provided information to complete the rent determination.

ABLE Accounts [24 CFR 5.609(b)(10) as updated for HOTMA; Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets.

Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

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.

PHA Policy

- In determining the market value of an investment account, the PHA will use the value of the account on the third-party verification or, if unavailable, 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 PHA 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 less reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income *except* for the following types of assets:

- Equity in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be

calculated as described.

- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice 2012-3].

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

PHA Policy

- In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts [24 CFR 5.609(b)(2) as updated for HOTMA]

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).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets so long as the fund continues to

be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4) as updated for HOTMA]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable* trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust.
- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

- For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Retirement Accounts [24 CFR 5.609(b)(26) as updated for HOTMA]

Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is excluded. For example, actual interest or dividend income is not counted as anticipated income from the account on the Form HUD-50058. When the PHA includes the value of the retirement account as assets on the Form HUD-50058, if the total cash value of the family's assets exceeds $5,000, imputed income will be calculated and included.

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without

retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5 26]. (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 are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

PHA Policy

- In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
- Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

PHA Policy

- Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.M. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the

family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.N. PERIODIC AND DETERMINABLE ALLOWANCES

[24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

PHA Policy

- The PHA will count all regular payments of alimony or child support awarded as a part of a divorce or separation agreement.
- The PHA will count court-awarded amounts for family and child support unless the family certifies and the PHA verifies that the payments are not being made.
    - If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period of less than 12 months, the PHA will average all payments that have been made.
- At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not the amount will be included in the calculation of annual income.
    - If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.
    - If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.
- If no payments have been made in the past six months and there are no lump sums, the PHA will not include alimony or child support in annual income.

PART II: ADJUSTED INCOME

6-II.A. OVERVIEW

HUD regulations require PHAs to deduct from annual income any of five 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.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] 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 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 childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

PHA Policy

- Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the PHA 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 PHA 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 PHA may require the family to provide documentation of payments made in the preceding year. As an alternative, the PHA

may use documentation of medical expenses paid in the previous 12 months to anticipate medical expenses for the coming 12 months.
- A one-time expense that was not anticipated at the previous certification maybe considered as an expense the following year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead 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, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION

[24 CFR 5.611(a)(3)(i) and 5.603(b) as updated for HOTMA]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The health and medical care expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) (as updated for HOTMA) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies to IRS Publication 502. PHAs must review each

expense to determine whether it is eligible in accordance with HUD's definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603 as updated for HOTMA. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

In accordance with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896), when requesting documentation to determine unreimbursed health and medical care expenses, the PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs.

PHA Policy

- The PHA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the PHA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses*.

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair,	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or

handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the PHA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Before placing health, medical, or disability expense bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

- This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.
- When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care 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)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member

may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 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.

PHA Policy

- The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the PHA 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 PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

PHA Policy

- The PHA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify. However, under no circumstances will the PHA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of health and medical care expenses.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

PHA Policy

- Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day [Notice PIH 2023-27].
- Attendant care also 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.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

- This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.
- When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA 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

HUD defines *childcare expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only

to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household, are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

PHA Policy

- The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).
- In evaluating the family's request, the PHA 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

PHA Policy

- If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the PHA.

Furthering Education

PHA Policy

- If the childcare expense being claimed is to enable a family member to further their

education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

PHA Policy

- If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

PHA Policy

- When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Child Care Activities

PHA Policy

- For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.
- The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.
- If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

PHA Policy

- Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.
- Preferred verification is previous year income tax return documenting childcare expense claimed.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Minimum Rent [24 CFR 5.630]

PHA Policy

- The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Policy

- The PHA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

PHA Policy

- The PHA will issue all utility reimbursements monthly.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

[24 CFR 5.630]

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the

Personal Responsibility and Work Opportunity Act of 1996.

PHA Policy

- A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
- For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy

- For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy

- In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

PHA Policy

- The PHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is

temporary or long-term.

PHA Policy

- The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent ~~$50~~ ~~Minimum rent~~
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

PHA Policy

- To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.
- The PHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

PHA Policy

- The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of

the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

PHA Policy

- The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

PHA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. APPLYING PAYMENT STANDARDS

[24 CFR 982.505(c) and Notice PIH 2024-34]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family [24 CRF 982.505(c)(1)].

If the PHA has established an exception payment standard for a designated part of an FMR area in accordance with 24 CFR 982.503 and a family's unit is located in the designated area, the PHA must use the appropriate payment standard for the exception area [24 CFR 982.505(c)(2)].

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations. Regulations governing increases and decreases in the payment standard have changed, with a required compliance date of December 3, 2024.

Decreases [24 CFR 982.505(c)(2) and Notice PIH 2024-34]

For new HAP Contracts, the PHA applies the payment standard in effect at the time of HAP Contract execution.

The PHA must administer decreases in the payment standard amount for the family in accordance with the PHA policy as described in the administrative plan and apply the policy consistently to all families.

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP Contract, the PHA is not required to reduce the payment

standard used to calculate subsidy for families under HAP Contract as long as the HAP Contract remains in effect.

Changes effective 12/3/24 and later: If the PHA does choose to reduce the payment standard for families currently under HAP Contract, the initial reduction to the payment standard may not be applied any earlier than two years following the effective date of the decrease in the payment standard and only with proper written notice to the family in accordance with 24 CFR 982.505(c)(3)(iii).

At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. In the written notice, the PHA must state the new payment standard amount, explain that the family's new payment standard amount will be the greater of the amount listed in the current written notice or the new amount (if any) on the PHA's payment standard schedule at the end of the 12-month period, and make clear where the family will find the PHA's payment standard schedule. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

PHA Policy

- The PHA will voluntarily adopt Small Area Fair Market Rents for its service area.
- The PHA will adopt a hold harmless protection – no reduction in subsidy. For a family that was under HAP on the effective date of the decrease in the payment standard, the PHA will continue to use the existing higher payment standard for the family's subsidy calculation for as long as the family continues to receive voucher assistance in the same unit.

For reference and audit purposes, for changes that were effective 12/2/24 and earlier: If the PHA reduced the payment standard for families then currently under HAP contract, HUD required that the initial reduction to the payment standard 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.

Increases [24 CFR 982.505(c)(4) and Notice PIH 2024-34]

For new HAP Contracts, the PHA applies the payment standard in effect at the time of HAP

Contract execution.

Changes effective 12/3/24 and later: If the payment standard is increased during the term of the HAP Contract, the increased payment standard will be applied no later than the earliest of:

- The effective date of an increase in the gross rent that would result in an increase in the family share;
- The family's first regular or interim reexamination; or
- One year following the effective date of the increase in the payment standard amount.

The PHA may adopt a policy to apply a payment standard increase at any time earlier than the date calculated above as long as the policy is included in the administrative plan and applied consistently to all families [24 CFR 982.505(c)(5)].

For reference and audit purposes, for changes effective 12/2/24 and earlier: If the PHA increased the payment standard during the term of the HAP contract, the increased payment standard was to 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 did not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size (Voucher Size) [24 CFR 982.505(c) and Notice PIH 2024-34]

Changes effective 12/3/24 and later: 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 may be used to determine the payment standard immediately but no later than the family's first regular reexamination following the change in family unit size.

PHA Policy

- If the family unit size (voucher size) changes during the term of a HAP Contract, the new family unit size will be used to determine the payment standard at the family's first regular reexamination following the change in family unit size.

For reference and audit purposes, for changes effective 12/2/24 and earlier: Irrespective of any increase or decrease in the payment standard, if the family unit size increased or decreased during the HAP contract term, HUD required the new family unit size to 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.

Moves

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.

Reasonable Accommodation [24 CFR 982.503(d)(5)]

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR without HUD approval or prior notification to HUD. A PHA may establish a payment standard greater than 120 percent of the applicable FMR as a reasonable accommodation in accordance with 24 CFR part 8, after requesting and receiving HUD approval. See Chapter 16 for more information.

6-III.D. APPLYING UTILITY ALLOWANCES

[24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two [FR Notice 06/25/14]. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Flat Fees [24 CFR 982.517(b)(2)(iii)]

The PHA may base its utility allowance payments on actual flat fees charged by an owner for utilities that are billed directly by the owner, but only if the flat fee charged by the owner is no greater than the PHA's applicable utility allowance for the utilities covered by the fee. If the owner charges a flat fee for some but not all utilities, the PHA must pay a separate allowance for any tenant-paid utilities not covered in the flat fee.

PHA Policy

- The PHA will not base utility allowance payments on flat fees charged by the owner.

PBV Developments [24 CFR 982.517(b)(2)(iv)]

If a tenant-based voucher holder resides in a project with project-based voucher (PBV) units and the PBV units use a site-specific utility allowance in accordance with PBV regulations, the PHA must use the project-specific utility allowance schedule.

Reasonable Accommodation and Individual Relief

On request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the PHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company.

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

PHA Policy

- Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES

[24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS
24 CFR 5.609

(a) Annual income, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of the net family assets exceeds the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners), the full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; expect that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that results in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adults as defined in § 5.403 and § 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C.1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and

charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from-

(1) The federal government;

(2) A state, tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institute of higher education.

(B) Student financial assistance, for purpose of this paragraph (9)(ii), does not include-

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);

(3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(e) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hospital fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the qualify of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment trainings program (including training programs not affiliated with a local government) and training of a family member as a resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for a period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a

loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall by income at the time they are received by the family.

(27) Income earned on amounts placed in a family’s Family Self-Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the

family.

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS
24 CFR 5.603(b)

Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-3: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617

Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

(b) Disallowance of increase in annual income—

(1) Initial twelve-month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an

increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve-month exclusion and phase-in. During the second cumulative twelve-month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four-year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48-month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(c) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION
24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) ***Applicability***. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) ***Definitions.*** The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self- sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) ***Imputed welfare income.***

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed.

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) ***Review of PHA decision.***

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) ***PHA relation with welfare agency.***

(1)The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2)The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3)Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7.A: VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2017~~7~~8-~~12~~18]

INTRODUCTION

Prior to the PHA's HOTMA compliance date, the PHA will follow policies as outlined in this chapter. Upon the PHA's HOTMA compliance date, the PHA will follow policies as outlined in Chapter 7.B.~~This chapter is applicable upon the PHA's HOTMA 102/104 compliance date.~~

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice ~~2017-12~~ 2018-18 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part II provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 982.516; 24 CFR 982.551; 24 CFR 5.230; Notice PIH 2023-27; and HOTMAquestions@HUD.gov response 9/15/25]

Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

In addition, if a PHA chooses to distribute EIV reports via mail, email, or other methods, they must ensure compliance with the Federal Privacy Act.

PHA Policy

- At admission, the PHA will request that all adult family members (other than the head of household) sign consent forms stating that their EIV income information may be shared with the head of household. Adult family members with no such consent form on file will be requested to sign at annual reexamination.
- Refusal by an adult family member to sign a form granting permission to provide EIV information to the head of household is not grounds for denial or termination of assistance of either the individual or the family.
- If an adult family member other than the head of household fails to sign a consent form stating that their EIV income information may be shared with the head of household, the PHA will utilize EIV's "Print Household Member Information" feature to generate income reports addressed separately to each adult in the household. For example, if a household has two adults, the PHA will provide one report to the head of household and a separate report to the other adult member.
- The executed form will remain effective until the family is denied assistance, the individual leaves the program, or the family member provides written notification to the PHA to revoke consent.

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Form HUD-9886-A

[24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]

All adult applicants and participants sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

PHA Policy

- Family members turning 18 years of age between annual recertifications will be required to sign the HUD-9886A at the next interim or annual reexamination, whichever occurs first.

The purpose of form HUD-9886-A 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 PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). The PHA must also develop its own release forms to cover all other information not covered by the form HUD-9886-A.

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

PHA Policy

- The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.
- In order for a family to revoke their consent, the family must provide written notice to the PHA.
- Upon receipt of the family's request to revoke consent, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

Use of Other Programs' Income Determinations [24 CFR 5.609(c)(3) and Notice PIH 2023 27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. If the PHA adopts a policy to accept this type of verification, the PHA must include in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);

- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is

obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and childcare expenses deducted from a family's annual income, except for when a family is approved for a childcare expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

PHA Policy

- The PHA will not accept Safe Harbor income determinations.

HUD's Verification Hierarchy [PIH 2018-18~~PIH 2023-27~~]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

PHA Policy

- ~~Any documents used for verification must be dated within 60 days of the date the request date.~~ The documents must not be damaged, altered or in any way illegible.
- Printouts from web pages are considered original documents.
- For voucher issuance on moves, documents must be dated within 120 days of the PHA request date.

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File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

PHA Policy

- The PHA will document, in the family file, the following:
- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH -2017-1218-18].

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c) and Notice PIH 2023-27

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

PHA Policy

- When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, the PHA will obtain third-

party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

7-I.D. UPFRONT INCOME VERIFICATION (UIV)

Upfront income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

~~The PHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.~~

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. However, the PHA is not required to verify income information in EIV at annual reexamination when Safe Harbor verification is used to determine a family's income [Notice PIH 2023-27]. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

PHA Policy

- PHA will review the EIV Income Report to confirm/validate tenant-reported income;
- PHA will print and maintain an EIV Income Report in the tenant file;
- PHA will obtaining current acceptable tenant-provided documentation to supplement EIV information;
- Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request

a benefit verification letter from the tenant.(See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.)

- PHA will use current tenant-provided documentation and/or third-party verification to calculate annual income.

When the PHA determines through the income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against Social Security Administration (SSA) records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 201~~7~~8-1~~8~~2].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

PHA Policy

- The PHA will monitor and resolve issues with this report monthly.
- The PHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents or obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

~~**EIV Deceased Tenants Report and Immigration Report**~~

~~PHA Policy~~

- ~~The PHA will monitor and resolve issues with this report monthly.~~

~~**EIV Multiple Subsidy Report**~~

~~PHA Policy~~

- ~~The PHA will generate and review this report on a quarterly basis.~~

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront

verification sources.

PHA Policy

- The PHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:
  - HUD's EIV system
  - ~~The Work Number~~
  - Others deemed applicable

7-I.D~~D~~. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH ~~2017~~2018-1~~2~~8]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, complete bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

PHA Policy

- Third-party documents provided by the family must be dated within 60 days of the PHA request date.
- For voucher issuance on initial and subsequent moves, documents must be dated within 60 days of the PHA request date.
- If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

- As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs ~~may~~ mail~~, fax,~~ or e-mail third-party written verification form requests to third-party sources.

PHA Policy

- The PHA ~~will~~ may send third-party verification forms directly to the third party.
- Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

Oral Third-Party Verification [Notice PIH 201~~7-12~~]8-18]

For third-party oral verification, PHAs contact sources identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

PHA Policy

- In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.
- When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 201~~7-12~~8-18]

Third-party verification may not be available in all situations. HUD has acknowledged that it

may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHA's to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

PHA Policy

- The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Income [24 CFR 982.516(a)]

For families with net assets totaling $5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

PHA Policy

- If total assets are less than $5,000 the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable.
- The PHA will use third-party documentation for assets at intake when additional family members are added and every three years thereafter.

7-I.FE. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification is acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

PHA Policy

- When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.
- The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.
- The self-certification must be made in a format acceptable to the PHA and must be signed and dated by the family member whose information or status is being verified.

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA may require families to furnish verification of legal identity for each household member.

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

- If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.
- If none of these documents can be provided and at the PHA'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 PHA and must be signed by the family member whose information or status is being verified.
- Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and Notice PIH ~~2010-3~~2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the

family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available [Notice PIH 2023-27].

If the tenant's SSN is verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name and SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

PHA Policy

- The PHA 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 PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

PHA Policy

- The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA,

natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

PHA Policy

- The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

- The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

PHA Policy

- The PHA will verify each disclosed SSN by:
  - Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
  - Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

PHA Policy

- Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

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.

PHA Policy

- Documentation of age will only be required if EIV fails based on date of birth.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

- Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships and changes in family relationships and composition. Delegation of Parental Authority or written permission of the parent or other person having custody will be accepted in accordance with Minn. Stat. 524.5-211 2016.

Absence of Adult Member

PHA Policy

- If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or a utility bill).

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

PHA Policy

- The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:
  - The family reports full-time student status for an adult other than the head, spouse, or cohead, or
  - The family reports childcare expenses to enable a family member to further their education, or
  - The family included a student enrolled in an institution of higher education.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

PHA Policy

- In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:
  - The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
  - The student is at least 24 years old.
  - The student is a veteran, as defined in Section 3-II.E.
  - The student is married.
  - The student has at least one dependent child, as defined in Section 3-II.E.
  - The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.
- If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

Independent Student

PHA Policy

- The PHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:
  - Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)
  - Reviewing the student's prior year income tax returns to verify whether the student is independent or verifying the student meets the US Department of Education's definition of *independent student*.
  - Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the PHA determines that the student is a v*ulnerable youth*.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions (VG, p. 23).

PHA Policy

- For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter, they will be required to provide it to the PHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

PHA Policy

- For family members claiming disability who do not receive disability benefits from the SSA, a licensed professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The licensed professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

[24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed

below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)].

U.S. 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 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

PHA Policy

- Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.
- ~~A VAWA self-petitioner may indicate that they are in "satisfactory immigration status" when applying for assistance. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.~~

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7, HUD Secretary Letter 12/16/25]

Family members under the age of 62 who claim to be eligible immigrants, must provide supporting documentation of their immigration status and sign a verification consent form. Supporting documentation consists of documentation accepted by the U.S. Citizenship and Immigration Services (USCIS)—for example, a Form I-551 U.S. Permanent Resident Card.

The PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The primary method for verifying eligible immigration status is USCIS's automated system, Systematic Alien Verification for Entitlements (SAVE). The PHA must determine whether the applicant's status makes them eligible for assistance consistent with Section 214. Exhibit 7-2 at the end of this chapter provides information on eligibility for HUD assistance.

Where applicable, the PHA must retain documentation of SAVE verification in tenant files. If SAVE cannot confirm an individual's eligible immigration status, or if the response in SAVE verifies an immigration status that is not eligible for assistance, then the PHA must submit a request for secondary or additional verification to USCIS within 10 days of receiving the initial results. The PHA must scan and upload information to USCIS as needed or required to obtain a verification response.

If the secondary or additional verification fails, the PHA must notify the family and inform them of their right to file an appeal with USCIS. If the family wishes to exercise their right to file an appeal with USCIS, they must submit a written request to USCIS within 30 days of the notification. USCIS will render a decision to the family and forward a copy to the PHA.

Assistance must be denied when primary and secondary verification do not verify eligible immigration status and the family does not pursue a USCIS appeal or informal hearing rights, or decisions are rendered against the family through a USCIS appeal or informal hearing.

The PHA must not delay, deny, reduce, or terminate assistance because of a delay in the process of determining eligible status, unless the family causes the delay. While the PHA may not admit any individual prior to receiving required documentation, the PHA may elect to provide prorated assistance to the family prior to completing the verification process.

Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance. The head of household must sign a statement listing all family members who do not claim to be citizens, nationals, or eligible immigrants, or whose status cannot be confirmed [HUD Secretary Letter 12/16/25].

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list. See Chapter 4, 4-III.C. Selection Method, Local Preferences, PHA Policy.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified according to PHA policy. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

PHA Policy

- Tip income will be included based on 3rd party verification and/or self-certification.

Wages

PHA Policy

- For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

PHA Policy

- Business owners and self-employed persons will be required to provide:
  - All schedules completed for filing federal and local taxes in the preceding year.
- The PHA may provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
- At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or complete bank statements.
- If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income. If the family member has been self-employed three (3) months or more, the PHA 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

Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

7-III.D. ~~SPOUSAL MAINTENANCE~~ ALIMONY OR CHILD SUPPORT

PHA Policy

- The methods the PHA will use to verify spousal maintenance and child support payments differ depending on whether the family declares that it receives payments.
- If the family declares that it receives payments, verification will be obtained in the following order of priority:
  - Copies of the payment history for the previous 12 months.
  - Third-party verification from the person paying the support
  - Family's self-certification of amount received

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

- The PHA will verify the value of assets disposed of only if:
  - The PHA does not already have a reasonable estimation of its value from previously collected information, or
  - The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

- The family must provide:
  - A current executed lease for the property that shows the rental amount or certification from the current tenant
  - A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).
  - If schedule E was not prepared, the PHA 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 complete bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

PHA Policy

- The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.
- The type of document that will be accepted depends upon the family member's retirement status.
  - *Before* retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
  - *Upon* retirement, the PHA 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 PHA will accept an original document from the entity holding

the account dated no earlier than 6 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of minor, or foster care funds) [Notice PIH 2013-04].

PHA's may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHA's have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student other than the head of household, spouse, or cohead).

PHA Policy

- The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.
- The PHA will verify the source and amount of partially excluded income as described in Part I of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

[PIH 2023-27]

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)].

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

PHA Policy

- The PHA will check EIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.
- The PHA will require the family fill out a Household Certification of Zero Income form self-certifying how they are paying their expenses and that they are at zero income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

[24 CFR 5.609(b)(9) as updated for HOTMA]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

PHA Policy

- The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.
- In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.
- If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBLITY RESTRICTIONS

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

determined independent from their parents or a vulnerable youth in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146 and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

PHA Policy

- If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The PHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.
- The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, complete bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person aged 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

PHA Policy

- Health and medical care expenses will be verified through:
    - Written third-party documents provided by the family, such as pharmacy printouts or receipts.
    - The PHA will make a best effort to determine what expenses from the past are

likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be paid for health and medical care expenses during the upcoming 12 months.

- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months will be accepted.

- Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.
- If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].
- ~~The PHA may use actual verified expenses for the previous 12 months to anticipate expenses for the upcoming 12 months.~~
- In addition, the PHA will verify that:
  - The household is eligible for deduction.
  - The costs to be deducted are qualified medical expenses.
  - The expenses are not paid for or reimbursed by any other source.
  - Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a health and medical care expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

PHA Policy

- The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third-party, the third-party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

PHA Policy

- When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will take into consideration:
  - 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 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

PHA Policy

- The PHA will accept written third-party documents provided by the family.
- If the family-provided documents are not available, the PHA will provide a third-party

verification form directly to the care provider requesting the needed information.

- Expenses for attendant care will be verified through:
  - Written third-party documents provided by the family, such as receipts or cancelled checks.
  - Third-party verification form signed by the provider, if family-provided documents are not available.
  - If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

PHA Policy

- The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.
- If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

- The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA will verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will ensure that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

PHA Policy

- The childcare provider will be required to provide proof of payment and certify that the childcare expenses are not paid or reimbursed to the family from any source.
- If the childcare provider is not a licensed facility, the family will be required to provide copies of check or money orders documenting 2 months of payments as proof of payment
- Previous year income tax return verifying claimed expense is the preferred documentation to support the expense.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

- Information to be gathered
  - The PHA will gather 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 PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.
  - In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.
- Furthering Education
  - The PHA will request third-party documentation to verify that the person permitted to further his or her education is actually enrolled at the institution. The documentation may be provided by the family.
- Gainful Employment
  - The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could

be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

PHA Policy

- The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.
- If the family presents a justification for costs that exceed typical costs in the area, the PHA may request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS

[HCV GB, pp. 5-9 and 5-10]

<table>
<tr><td colspan="2">

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

</td></tr>
<tr><td colspan="2">

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

</td></tr>
<tr><td colspan="2">

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below:

</td></tr>
<tr><td>

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
- “Admitted as a Refugee Pursuant to Section 207”
- “Section 208” or “Asylum”
- “Section 243(h)” or “Deportation stayed by Attorney General”
- “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

</td><td>

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
- A final court decision granting asylum (but only if no appeal is taken);
- A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
- A court decision granting withholding of deportation; or
- A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

</td></tr>
<tr><td>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</td><td>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</td></tr>
<tr><td colspan="2">

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

</td></tr>
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CHAPTER 8.A.: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

Owners must maintain all units occupied by families receiving Housing Choice Voucher (HCV) assistance in accordance with housing quality standards. Units assisted under the program must comply with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than February 1, 2027. Until such time, the PHA may continue using the HQS inspection standards.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

NSPIRE and HQS

Even once the HQS inspection standard has sunset, the regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs will continue to use the terms *HQS* and *housing quality standards* rather than *NSPIRE*. This is because the definition of *housing quality standards (HQS)* at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. As such, the model policy uses the term *housing quality standards* whenever applicable regulations use this term. Except in the chapter describing HQS, the acronym *HQS* is not used in the model policy in order to avoid confusion between the umbrella term meaning housing standards and the specific inspection protocol. The model policy only uses the term *NSPIRE* when referring to specific NSPIRE standards.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and security
- Thermal environment
- Illumination and electricity
- Structure and materials
- Interior air quality
- Water supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- ~~Smoke detectors~~

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

NSPIRE Standards Applicable to HQS [HUD Letter 6/14/24]

Even if the PHA is still under the HQS inspection standard, the PHA must apply the following requirements under NSPIRE:

- The NSPIRE standards for carbon monoxide detectors and smoke alarms are currently applicable even if the PHA has not yet transitioned to NSPIRE;
- ~~PHAs are required to comply with the NSPIRE Smoke Alarm Standard prior to December 3, 2024; and~~
- The Visual Assessment Standard for Potential Lead-Based Paint Hazard in 24 CFR Part 35 Subparts M and H apply.

The carbon monoxide detectors requirement took effect and became an inspectable item on December 27, 2022. PHAs may directly follow the NSPIRE Carbon Monoxide standard or see Notice PIH 2022-01 for additional guidance on this requirement.

For smoke alarms, PHAs are already required to comply with the Federal Fire Safety Act of 1992 and keep HQS inspections current with the National Fire Protection Association (NFPA) Standards. As of December 29, 2024, all smoke alarms must be either hard wired or sealed, 10-year battery devices.

PHAs that opt to retain HQS can continue to utilize previous HQS definitions and guidance, provided they are also in compliance with the above requirements.

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable

amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

PHA Policy

- The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and April 30.

Clarifications of HUD Requirements

PHA Policy

Commented [TO6]: Would not be a part of NSPIRE for the most part as it’s written

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards.

- **Walls**
    - In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.
    - 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.

- **Windows**
    - Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced. Windows should stay up on their own without the use of assistance, such as a stick or block.
    - Windows must be weather-stripped as needed to ensure a weather-tight seal.
    - Window screens must be present inf the window is openable between October 1 and May 1. In a room with more than one window, a minimum of one screen must be present and free of rips and tears.
    - Any room for sleeping must have a window or an openable door to the immediate exterior unless it meets the eligibility criteria for a HUD approved variance for windowless sleeping rooms. To be eligible for the variance the unit must:
        - Be newly constructed OR rehabilitated in a multifamily development.
        - Meet all state and local building fire codes.
    - Any window designed to be openable must be open to the exterior. 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.
    - Taping or caulking of window cracks is generally not acceptable.
- **Doors**
    - All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
    - All interior doors must have no holes that present a safety hazard to small children, have all installed trim intact enough to not present a safety hazard to small children, and be openable without the use of a key.
- **Floors**
    - All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.
    - All floors in living space must be in a finished state.
- **Bathrooms**
    - All unsanitary, worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
    - Main bathroom must have a door or be designed for privacy.
- **Security**

- If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.
- Strike plate for security door shall be present and secured to the door jam.

- **Bedrooms**
  - Size—Each room should be no less than seventy (70) square feet, with a minimum width of seven (7) feet.
  - Bedrooms must have four walls.
  - A three-way switch must be installed for stairway lighting from the top of the stairs to the bedroom to permit a person to safely walk from the top of the stairs to the bedroom.
- **Smoke Detectors**
  - The 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 excluding 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 person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).
  - PHA Policy
    - At least one hardwired with battery backup OR 10-year sealed battery smoke detector, in proper working condition, must be in the following locations:
      - On each level of the unit
      - Outside each sleeping area
      - Inside each bedroom
- **Carbon Monoxide (CO) Detectors**
  - In accordance with Minnesota Statute 299F.50, every single-family dwelling and multi-family dwelling, including duplexes through apartment complexes, must have a carbon monoxide detector installed within ten feet of any room lawfully used for sleeping purposes. "Installed" means that an approved carbon monoxide alarm is hard-wired into the electrical wiring, directly plugged into an electrical outlet without a switch, or, if the alarm is battery powered, attached to the wall of the dwelling. The alarms must be installed in accordance with the manufacturer's installation instructions.
  - PHA Policy

        - Are required if the property has any fuel-burning appliances (e.g., gas stoves, furnaces), fireplaces (gas or wood) and/or an attached garage
        - Must be in the following locations:
            - Outside each sleeping area
            - On every level of the unit
            - Combination smoke/CO alarms that meet both standards are acceptable

- **Modifications**
    - Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.
    - Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. PHA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.
- **Electrical Specifications**
    - Any surface mounted romex wiring should be run in such a manner to be protected from any damage and all surface wiring is to be securely attached to structural components.
    - Cord or pull chain fixtures shall be cloth (non-metallic) in moisture areas (e.g., kitchen bathroom and basement).
    - If exposed and accessible, all missing light bulbs should be installed in order to close an open electrical socket.
    - Dead outlets or switches should be made operable, or device removed, wires properly capped, and a blank cover installed on box.
    - Electrical service panel shall have no open knockouts.
- **Infestation**
    - The owner is responsible for treating infestation, even if caused by the family's living habits.

8-I.C. LIFE-THREATENING CONDITIONS

[24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

PHA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
    - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
    - A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
    - A light fixture is hanging by its wires
    - A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
    - A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed
    - An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
    - A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
    - Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
    - Exposed bare wires or electrical connections
    - Any condition that results in openings in electrical panels or electrical control device enclosures
    - Water leaking or ponding near any electrical device
    - Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
    - Any components that affect the function of the fire escape are missing or damaged

- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency
- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

- Absence of a functioning toilet in the unit
- Inoperable or missing smoke detectors and/or carbon monoxide detectors
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - A fuel-fired space heater is not properly vented or lacks available combustion air
  - A non-vented space heater is present
  - Safety devices on a fuel-fired space heater are missing or damaged
  - The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit
- The PHA may accept current documentation from a federal, state, or local agency provided it confirms that the assisted unit is unfit for human habitation in lieu of conducting a separate inspection

Commented [TO7]: Review with inspectors

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES

[24 CFR 982.404]

The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond ordinary wear and tear that results in a breach of the HQS. *Ordinary wear and tear* is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

PHA Policy

- If a household member or guest have engaged in or threatened violent or abusive behavior toward PHA personnel, the Metro HRA may suspend, abort, or cancel an inspection which may ultimately result in denial or termination of program participation. Abusive or violent behavior towards PHA 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.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family.

PHA Policy

- If an owner, property manager, or agent for owner has engaged in or threatened violent or abusive behavior toward PHA personnel, the Metro HRA may suspend, abort, or cancel an inspection which may ultimately result in termination of the HAP contract. Abusive or violent behavior towards PHA 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.

~~The following is applicable to HAP contracts executed or renewed June 6, 2024, or later:~~

Owner ~~Responsibilities~~Obligation

The owner must maintain the unit in accordance with housing quality standards. A unit is not in compliance with housing quality standards if the PHA or other inspector authorized by the state or local government determines that the unit has housing quality standards deficiencies based upon an inspection, notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate time frame.

In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control (other than damage resulting from ordinary use), the PHA may waive the owner's responsibility to remedy the violation. The HAP to the owner may not be withheld or abated if the owner responsibility has been waived. However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. In addition, the PHA may terminate the family's assistance because of a housing quality standards breach (beyond damage resulting from ordinary use) caused by any member of the household, guest, or other person under the tenant's control.

PHA Policy

- The owner is responsible for all housing quality standards violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.
- If an owner, property manager, or agent for owner has engaged in or threatened violent or abusive behavior toward PHA personnel, the Metro HRA may suspend, abort, or cancel an inspection which may ultimately result in termination of the HAP contract. Abusive or violent behavior towards PHA 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.

Family Responsibilities

The family may be held responsible for a breach of housing quality standards caused by any of the following:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family; and
- Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.
    - PHA Policy
        - Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.
        - If the family has caused a breach of housing quality standards, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 24 CFR 982.552.
        - If a household member or guest have engaged in or threatened violent or abusive behavior toward PHA personnel, the Metro HRA may suspend, abort, or cancel an inspection which may ultimately result in denial or termination of program participation. Abusive or violent behavior towards PHA 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.

If the PHA has waived the owner's responsibility to remedy the violation as outlined under the owner obligations above, the following applies:

- If the housing quality standards breach caused by the family is life-threatening, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 24 hours of notification.
- For other family-caused deficiencies, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 30 calendar days of notification (or any PHA-approved extension).

If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 24 CFR 982.552.

PHA Policy

- The owner is responsible for all housing quality standards violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

[24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA 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 thirty (30) days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS

[24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one 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 [HCV GB p. 10-6]. 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 PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW

[24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Periodic Inspections*. HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Interim Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Supervisory Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit as defined in 24 CFR 982.4. The independent entity must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government). The PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease. PHA-owned unit is freely selected by the family, without PHA pressure or steering.

For information on the inspection of PHA-owned units in the PBV program, see Chapters 17 and 18.

Inspection Costs [Notice PIH 2016-05; 24 CFR 5.705(h)]

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(g)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fees (including fees credited to the administrative fee reserve) for inspections

performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections if an owner notifies the PHA that a repair has been made or the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing, pursuant to 24 CFR 982.404(a), was not 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 PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

PHA Policy

- The PHA will not charge a fee for failed reinspections.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

PHA Policy

- The PHA may conduct any HQS inspections via RVI using the following guidance.

VIRTUAL INSPECTION CHEKLIST

General Unit Condition

Do your unit doors open, close and lock properly? **TEST all entry doors**
Do all the windows open, stay up, close, and **lock**? Is there any broken glass?
TEST all accessible windows
Is there a working smoke alarm on every floor? **TEST all**
Is there a working Carbon Monoxide detector within 10 feet of every bedroom? **TEST all**
Do all the outlets and lights work?
Do you have any infestation problems? (mice, roaches, bed bugs) If yes, confirm.
Are there any issues outside the unit that you feel should be addressed? (loose handrails, broken steps)
Does the garage door opener operate and close with one push of the closer button?

Kitchen

Does your refrigerator cool and freeze properly?
Do all the stove top burners and oven work?
Does the hood vent or microwave work?
Do you have hot and cold water to the sink?
Does the sink drain?
Are there any water leaks?

Bathroom(s)

Do you have hot and cold water to the sink and bathtub?
Do the sink and tub drain?
Are there any water leaks?

Utilities

Do you have adequate heat?
Do you have adequate hot water?
Does the water heater and furnace vent properly? **VERIFY / VIEW**
Do you have any drains that are backing up or do not drain?
Do you have any water leaks or water intrusion into the unit?
Do the washing machine and dryer work?
Is the dryer vent attached and vented to the outside? **VERIFY / VIEW**

If a unit was built in 1978 or prior and there are children aged 6 or under, the unit is not eligible for a virtual inspection.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

PHA Policy

- Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 7:00 a.m. and 7:00 p.m. The PHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

PHA 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 PHA will inspect the unit in coordination with the owner or owner's representative. The presence of a family representative is permitted but is not required.

8-II.B. INITIAL HQS INSPECTION

[24 CFR 982.405(a)]

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet housing quality standards before the PHA approves assisted tenancy. However, PHAs have two options for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. The PHA may but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified; and/or
- Passed an alternative inspection in the last 24 months.

If the PHA adopts the alternative inspection option in combination with the non-life-threatening deficiencies option, the PHA must follow family and owner notification requirements listed at 24 CFR 982.406(f). Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

Approving Units with Non-Life-Threatening Deficiencies [FR Notice 1/18/17; Notice PIH 2017-20; FR Notice 5/7/24; and 24 CFR 982.405(j)]

The PHA may approve assisted tenancy, execute a HAP contract, and begin paying HAP if a unit fails an initial inspection, but only if the deficiencies identified are non-life threatening. This is known as the "NLT option." A PHA that implements the NLT option may apply the option to all of the PHA's initial inspections or may limit it to certain units. If the NLT option is adopted, the PHA must follow requirements listed at 24 CFR 982.405(j) for family and owner notification.

The PHA's administrative plan must specify the circumstances under which the PHA will exercise the NLT option, if any.

PHA Policy

- The PHA will not use the NLT option. All units must pass the initial inspection on or before the effective date of the HAP contract.

Approving Units Using Alternative Inspections [FR Notice 1/18/17; Notice PIH 2017-20; FR Notice 5/7/24; and 24 CFR 982.406]

The PHA may approve assisted tenancy, execute a HAP contract, and begin paying HAP if a unit passed an alternative inspection (i.e., an inspection conducted for another housing program) conducted in the last 24 months provided the PHA is able to obtain the results of the alternative inspection, the property received a "pass" score (if applicable), and the inspection meets the requirements at 24 CFR 982.406(c) and (d). The PHA may implement the use of alternative inspections for both initial and periodic inspections or may limit the use of alternative inspections to either initial or periodic inspections. If alternative inspections are used, the PHA must follow requirements listed at 24 CFR 982.406(e)(2) for family and owner notification.

A PHA relying on an alternative inspections must identify the alternative inspection method being used in the PHA's administrative plan.

PHA Policy

- The unit must pass the initial inspection on or before the effective date of the HAP contract.
- The PHA will not rely on alternative inspections and will conduct an initial inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections [24 CFR 982.305(b)(2)(i)]

Unless the PHA relies on alternative inspections, HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

PHA Policy

- The PHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination in a reasonable, timely and efficient manner indicative of good customer service.

- Initial inspections will only be done on vacant units or units occupied by the tenant named on the inspection.

Inspection Results and Reinspections

PHA Policy

- If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause.
- If the HAP Contract expires because more than 60 days has elapsed from the Contract date or repairs will not be completed, the PHA will notify the owner and the family that the unit has been denied and that the family will be issued a new voucher.
- Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if the family wishes to continue living in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

PHA Policy

- Utilities must be in working order at the initial inspection.

Appliances [Form HUD-52580]

PHA Policy

- If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

8-II.C. PERIODIC HQS INSPECTIONS

[24 CFR 982.405(b) and Notice PIH 2016-05]

PHA Policy

- Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. The PHA reserves the right to require annual inspections of any unit or owner at any time.
- The PHA will not rely on alternative inspection standards.

Scheduling the Inspection

PHA Policy

- If an adult cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA will only allow one reschedule of the inspection.
- If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. INTERIM INSPECTIONS

[24 CFR 982.405(d)]

If a participant or government official notifies the PHA of a potential deficiency, the following applies:

- If the reported deficiency is life-threatening, the PHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of PHA notification.
- If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from the PHA or within any PHA-approved extension.
- PHA Policy
    - During an interim inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record HQS life-threatening deficiencies that are observed and will require the responsible party to make the necessary repairs.
    - If the periodic inspection has been scheduled or is due within 90 days of the date the interim inspection is scheduled the PHA may elect to conduct a full inspection.

Scheduling the Inspection [24 CFR 982.405(e)]

In scheduling inspections, the PHA must consider complaints and any other information brought to the attention of the PHA.

PHA Policy

- The individual who reports the deficiency must have contacted the responsible party (owner or tenant) and provide evidence that an adequate attempt was made to remedy the issue.

8-II.E. SUPERVISORY QUALITY CONTROL INSPECTIONS

[24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

~~**The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:**~~

~~**Notification of Corrective Actions**~~

~~The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.~~

~~PHA Policy~~

- ~~When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The corrective actions must be taken within 24 hours of the PHA's notice.~~
- ~~When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results. The written notice will specify the owner is responsible for correcting the violation, and the time frame within which the failure must be corrected.~~
- ~~The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).~~

~~**The following is applicable to HAP contracts executed or renewed June 6, 2024, or later:**~~

Notification of Corrective Actions [24 CFR 982.404(d)(1)]

The owner must maintain the unit in accordance with housing quality standards. The unit is in noncompliance with housing quality standards if:

- The PHA or authorized inspector determines the unit has housing quality standards deficiencies based upon an inspection
- The PHA notified the owner in writing of the unit housing quality standards deficiencies; and
- The unit's housing quality standards deficiencies are not corrected within the required timeframes.

A PHA may withhold assistance payments for units that have deficiencies once the owner has been notified in writing of the deficiencies. The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP. In this case, if the unit is brought into compliance during the applicable cure period, the PHA must resume assistance payments and provide payments to cover the time period for which the payments were withheld.

The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period. In this case, the PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within sixty (60) days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP contract for the unit and the family will have to move to receive continued assistance. In this case, the PHA must issue the family its voucher to move at least thirty (30) days prior to the termination of the HAP contract.

PHA Policy

- The owner and the family will be notified in writing of the results of all inspections.
- The PHA will not withhold assistance payments upon notification of the deficiencies to the owner.
- When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.
- When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results. The written notice will specify the owner 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.

- If the owner is responsible for correcting the deficiency, the notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

PHA Policy

- Extensions will be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:
    - Delays caused by a third-party (example: contractor, homeowner association approval, parts supplier).
    - For repairs that may only be completed in warmer weather (May through October) in Minnesota (exterior concrete and paint, including windowsills), a manager may approve an extension beyond the contract/lease amendment effective date.
    - A reasonable accommodation is needed because the family includes a person with disabilities.
    - As determined necessary by a manager
- The length of the extension will be determined on a case-by-case basis, but will not exceed sixty (60) days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within thirty (30) calendar days, once the weather conditions have subsided.

Reinspections [24 CFR 982.405(i)]

When a PHA must verify correction of a deficiency, the PHA may use verification methods other than another on-site inspection. The PHA may establish different verification methods for initial and non-initial inspections or for different deficiencies. Upon either an inspection for initial occupancy or a reinspection, the PHA may accept photographic evidence or other reliable evidence from the owner to verify that a deficiency has been corrected.

PHA Policy

- The PHA will conduct a reinspection or obtain a signed certification of repairs from the owner as quickly as possible following the owner notifying the PHA that repairs have been completed.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

~~**The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:**~~

~~**HAP Abatement**~~

~~If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.~~

~~During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.~~

~~**HAP Contract Termination**~~

~~The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.~~

~~PHA Policy~~

- ~~The maximum length of time that HAP may be abated is sixty (60) days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.~~
- ~~If the owner fails to comply with HQS within sixty (60) days or the family gives notice to move, the family will be issued a voucher to permit the family to move to another unit as described in Chapter 10.~~
- ~~Reasonable notice of HAP contract termination by the PHA is thirty (30) days.~~

~~The following is applicable to HAP contracts executed or renewed June 6, 2024, or later:~~

HAP Withholding [24 CFR 982.404(d)(1)]

A PHA may withhold assistance payments for units that have housing quality standards deficiencies once the PHA has notified the owner in writing of the deficiencies. The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP. In this case, if the unit is brought into compliance during the applicable cure period, the PHA resumes assistance payments and provides assistance payments to cover the time period for which the payments were withheld.

PHA Policy

- The PHA will not withhold assistance payments upon notification to the owner of the deficiencies.

HAP Abatement [24 CFR 982.404(d)(2)]

The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period. In this case, the PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP contract for the unit and the family will have to move to receive continued assistance. In this case, the PHA must issue the family its voucher to move at least 30 days prior to the termination of the HAP contract.

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance.

PHA Policy

- For non life-threatening deficiencies, the PHA will make all HAP abatements effective the first of the month following the expiration of the PHA-specified correction period (including any extension).
- ~~The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA-specified correction period (including any extension).~~

During any abatement period the family continues to be responsible for its share of the rent.

For PHA policies on family moves when units are in abatement and termination of the HAP contract when a family moves due to deficiencies, see Section 10-I.B.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

PHA Policy

- The maximum length of time that HAP may be abated is sixty (60) days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.
- Reasonable notice of HAP contract termination by the PHA is thirty (30) days.
- The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS

[24 CFR 982.404(b)]

~~**The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:**~~

~~Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.~~

~~If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.~~

~~**The following is applicable to HAP contracts executed or renewed June 6, 2024, or later:**~~

If the PHA waived the landlord responsibility for housing quality standards deficiencies that have been determined to have been caused by the tenant, any member of the household, or any guest or other person under the tenant's control (see section 8-I.D), the family is responsible for correcting any housing quality standards violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair and may enter into a repayment agreement with the family.

PHA Policy

- The owner is responsible for all housing quality violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.

PART III: RENT REASONABLENESS

[24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

PHA Policy

- After the initial lease term, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.
- The PHA will determine whether the requested increase is reasonable, and the owner and family will be notified.
- All rents adjustments will be effective the first of the month following thirty (30) days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least sixty (60) days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

PHA Policy

- In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: HCV project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than four units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

PHA Policy

- The PHA will collect and maintain data on market rents in the PHA's jurisdiction. Information sources may include newspapers, realtors, market surveys, inquiries of owners and other available sources.

How Rents Are Determined

PHA Policy

- The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA will develop a range of prices for comparable units by bedroom size within defined market areas. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA may make adjustments to the range of prices to account for these differences.
- To determine a unit rent is reasonable, a minimum of three comparable units must be identified. On that rare occasion when three comparables cannot be identified justification must be documented.
- When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.
- The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The PHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for

different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- Provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within thirty (30) days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards). As of December 29, 2024, all smoke alarms must be either hard wired or sealed, 10-year battery devices.

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

CHAPTER 8.B.: NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 5 Subpart G and Notice PIH 2024-26, REV-1]

INTRODUCTION

Owners must maintain all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance in accordance with housing quality standards. Units assisted under the program must comply with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than ~~October 1, 2025~~February 1, 2027. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2024-26, REV-1].

All units must pass an inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months (or 36 months for small rural PHAs) during the term of the HAP contract, and at other times as needed, to determine that the unit meets housing quality standards. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

Provided they meet certain requirements, HUD permits PHAs to establish some additional local requirements in their administrative plans. The use of the term *NSPIRE standards* in this plan refers to the combination of both HUD and PHA-established requirements. However, state and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

This chapter explains HUD and PHA requirements related to physical inspections and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV and PBV-assisted families. It also identifies affirmative habitability requirements for all units and life-threatening conditions that must be corrected in 24 hours.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE standards.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction. Special requirements for the PBV and RAD PBV programs (if applicable) are discussed in Chapter 17 and 18, respectively.

NSPIRE and HQS

Even once the HQS inspection standard has sunset, the regulations at 24 CFR Part 982 and 983 governing the HCV and PBV programs will continue to use the terms *HQS* and *housing quality standards* rather than *NSPIRE*. This is because the definition of *housing quality standards* (HQS) at 24 CFR 982.4 means the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. As such, the model policy uses the term *housing quality standards* whenever applicable regulations use this term. Except in the chapter describing HQS, the acronym HQS is not used in the model policy in order to avoid confusion between the umbrella term meaning housing standards and the specific inspection protocol. The model policy only uses the term *NSPIRE* when referring to specific NSPIRE standards.

PART I: NSPIRE STANDARDS

NSPIRE standards are published on HUD's NSPIRE website as well as in the NSPIRE Final Rule [FR Notice 5/1/2023].

8-I.A. INSPECTABLE AREAS

[24 CFR 5.703(a)(1) and 24 CFR 5.705(a)(2)]

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

8-I.B. AFFIRMATIVE HABITABILITY REQUIREMENTS

[24 CFR 5.703(b), (c), and (d)]

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e)].

~~The NSPIRE Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the~~ As of December 29, 2024, (the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022), smoke alarms must have either a sealed- 10 year battery or be hard wired ~~on December 29, 2024, sealed batteries *will* be required~~.

8-I.C. MODIFICATIONS TO PROVIDE ACCESSIBILITY

[24 CFR 100.203; Notice 2003-31; and Notice PIH 2014-12]

Under the Fair Housing Act of 1988 an owner must make reasonable accommodations in rules, policies, practices, or services if necessary for a person with disabilities to use the housing and must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit if such modification is necessary to afford the person with a disability full enjoyment of the premises. Such modifications are at the family's expense. The owner may, where it is reasonable to do so, require restoration of the unit to its original condition (reasonable wear and tear excepted) if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest- bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

PHA Policy

- Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

8-I.D. ADDITIONAL LOCAL REQUIREMENTS

[24 CFR 5.705(a)(3) and Notice PIH 2024-26, REV-1]

The PHA may impose variations to the NSPIRE standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to NSPIRE standards and approved variations must be added to the administrative plan.

HUD may approve inspection criteria variations if the variations apply standards in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions. Acceptability criteria variations may only be approved by HUD if such variations either meet or exceed the performance requirements or significantly expand affordable housing opportunities for

families assisted under the program.

PHA Policy

- Metro HRA's variance to the Water Heater NSPIRE standard, Deficiency 3 (for Unit, Inside, and Outside) reads as follows:
  - The relief valve discharge piping is missing or does not terminate to a safe place of disposal within 18 inches of the floor.

Clarifications of HUD Requirements

Commented [TO8]: Review with inspectors

PHA Policy

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards.

- **Smoke Detectors**
  - If a smoke detector is placed over 8 ft high and is not accessible from the ground, an inspector may require written confirmation that it is functioning and either hard-wired with battery backup or a 10-year sealed battery.
- **Pathway**
  - A reasonable pathway must be accessible throughout the unit.
- **Bedrooms**
  - Size—Each room should be no less than seventy (70) square feet, with a minimum width of seven (7) feet.
  - Bedrooms must have four walls.
  - A three-way switch must be installed for stairway lighting from the top of the stairs to the bedroom to permit a person to safely walk from the top of the stairs to the bedroom.
- **Windows**
  - Any room for sleeping must have a window or an openable door to the immediate exterior unless it meets the eligibility criteria for a HUD approved variance for windowless sleeping rooms. To be eligible for the variance the unit must:
    - Be newly constructed OR rehabilitated in a multifamily development.
    - Meet all state and local building fire codes.
- **Infestation**

- Inspector may require documentation showing professional repairs and remediation.

- **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 in living space must be in a finished state.
- **Bathrooms**
  - All unsanitary, worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

8-I.E. LIFE THREATENING DEFICIENCIES

[Notice PIH 2024-26, REV-1 and FR Notice 7/14/17]

HUD previously required the PHA to define life-threatening conditions in the administrative plan. The NSPIRE standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under NSPIRE:

Inspectable Item	Deficiency
Call-for-Aid System	System is blocked or pull cord is higher than 6 inches off the floor.
	System does not function properly.
Carbon Monoxide Alarm	Carbon monoxide alarm is missing, not installed, or not installed in a proper location.
	Carbon monoxide alarm is obstructed.
	Carbon monoxide alarm does not produce an audio or visual alarm when tested.
Chimney	A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior.
	Chimney exhibits signs of structural failure.
	Electric dryer transition duct is detached or missing.

Inspectable Item	Deficiency
Clothes Dryer Exhaust Ventilation	Gas dryer transition duct is detached or missing.
	Electric dryer exhaust ventilation system has restricted airflow.
	Dryer transition duct is constructed of unsuitable material.
	Gas dryer exhaust ventilation system has restricted airflow.
Door – Entry	Entry door is missing.
Door – Fire Labeled	Fire labeled door is missing.
Egress	Obstructed means of egress.
	Sleeping room is located on the third floor or below and has an obstructed rescue opening.
	Fire escape is obstructed.
Electrical – Conductor, Outlet, and Switch	Outlet or switch is damaged.
	Exposed electrical conductor.
	Water is currently in contact with an electrical conductor.
Electrical – Service Panel	The overcurrent protection device is damaged.
Exit Sign	Exit sign is damaged, missing, obstructed, or not adequately illuminated.
Fire Escape	Fire escape component is damaged or missing.
Fire Extinguisher	Fire extinguisher pressure gauge reads over or under-charged.
	Fire extinguisher service tag is missing, illegible, or expired.
	Fire extinguisher is damaged or missing.
Flammable and Combustible Items	Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater; OR Improperly stored chemicals.

Inspectable Item	Deficiency
Guardrail	Guardrail is missing or not installed.
	Guardrail is not functionally adequate.
Heating, Ventilation, and Air Conditioning (HVAC)	The inspection date is on or between October 1 and March 31 and the permanently installed heating source is not working or the permanently installed heating source is working and the interior temperature is below 64 degrees Fahrenheit.
	Unvented space heater that burns gas, oil, or kerosene is present.
	Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance.
	Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.
Leak – Gas or Oil	Natural gas, propane, or oil leak.
Mold-like Substance	Presence of mold-like substance at extremely high levels is observed visually.
Smoke Alarm	Smoke alarm is not installed where required.
	Smoke alarm is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.
Sprinkler Assembly	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
	Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.
	Sprinkler assembly has evidence of corrosion.
	Sprinkler assembly has evidence of foreign material that is detrimental to performance.
Structural System	Structural system exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.

Inspectable Item	Deficiency
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
	Gas shutoff valve is damaged, missing, or not installed.

However, PHAs may add additional deficiencies which the PHA considers life-threatening provided they are described in the administrative plan.

PHA Policy

Commented [TO9]: Review with inspectors

In addition to those listed under the NSPIRE standards, the following are considered life-threatening conditions:

- Utilities are not in service.
- Sewage back up in unit and inside.
- Door – Entry – Unit
  - Entry door will not close.
  - Entry door will not lock.
- Water Heater
  - TPR valve is obstructed so that it will not actuate or is capped.
- The PHA may accept current documentation from a federal, state, or local agency provided it confirms that the assisted unit is unfit for human habitation in lieu of conducting a separate inspection.

8-I.F. OWNER AND FAMILY RESPONSIBILITIES

[24 CFR 982.404]

~~**The following is applicable to HAP Contracts executed or renewed June 5, 2024, or earlier:**~~

~~**Family Responsibilities**~~

~~The family is responsible for correcting the following deficiencies:~~

- ~~Tenant-paid utilities not in service~~
- ~~Failure to provide or maintain appliances owned by the family~~
- ~~Damage to the unit or premises caused by a household member or guest beyond ordinary normal wear and tear.~~

~~If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.~~

~~PHA Policy~~

- ~~Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.~~

~~**Owner Responsibilities**~~

~~The owner must maintain the unit in accordance with housing quality standards. The owner is not responsible for a breach of housing quality standards that is not caused by the owner, and for which the family is responsible (as provided in 24 CFR 982.404(b) and 982.551(c)).~~

~~PHA Policy~~

- ~~The owner is responsible for all housing quality violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.~~

~~If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the housing quality standards in accordance with HUD requirements. See 8-II.G.~~

~~**The following is applicable to HAP Contracts executed or renewed June 6, 2024, or later.**~~

Owner Obligations

The owner must maintain the unit in accordance with housing quality standards. A unit is not in compliance with housing quality standards if the PHA or other inspector authorized by the state or local government determines that the unit has housing quality standards deficiencies based upon an inspection, notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate time frame.

In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control (other than damage resulting from ordinary use), the PHA may waive the owner's responsibility to remedy the violation. The HAP to the owner may not be withheld or abated if the owner responsibility has been waived. However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. In addition, the PHA may terminate the family's assistance because of a housing quality standards breach (beyond damage resulting from ordinary use) caused by any member of the household, guest, or other person under the tenant's control.

PHA Policy

- The owner is responsible for all housing quality violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.

Family Responsibilities

The family may be held responsible for a breach of housing quality standards caused by any of the following:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family; and
- Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.

PHA Policy

- Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under the state law or in court practice.
- If the family has caused a breach of housing quality standards, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 24 CFR 982.552.

8-I.G. LEAD-BASED PAINT

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

Special Requirements for Children with Elevated Blood Lead Level [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA 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 PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of NSPIRE and the PHA will take action in accordance with Section 8 II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

8-I.H. VIOLATION OF SPACE STANDARDS

[24 CFR 5.703(d)(5)]

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a *habitable room* as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23].

A unit that does not meet these space standards is defined as *overcrowded*.

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP Contract in accordance with its terms.

PHA Policy

- Sleeping rooms below the finished ground level must meet be compliant with general means of egress local and state code.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW

[24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

Initial Inspections. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.

Periodic Inspections. HUD requires the PHA to inspect each unit under lease at least annually or biennially (or triennially for small rural PHAs as defined in 24 CFR 982.305(b)(2)), depending on PHA policy, to confirm that the unit still meets housing quality standards.

Interim Inspections. A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

Supervisory Control Inspections. HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the housing quality standards.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all inspections in cases where an HCV family is receiving assistance in a PHA-owned unit as defined in 24 CFR 982.4. The independent entity must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government). The PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease. PHA-owned unit is freely selected by the family, without PHA pressure or steering.

For information on the inspection of PHA-owned units in the PBV program, see Chapters 17 and 18.

Inspection Costs [Notice PIH 2016-05 and 24 CFR 5.705(h)]

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(g)].

In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fees (including fees credited to the administrative fee

reserve) for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)(1)(v)(B)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections if an owner notifies the PHA that a repair has been made or the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing, pursuant to 24 CFR 982.404(a), was not 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 PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

PHA Policy

- The PHA will not charge a fee for failed inspections.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

PHA Policy

- The PHA may conduct housing inspections using RVI.

VIRTUAL INSPECTION CHECKLIST

The Metro HRA Inspections Department is required to ensure all assisted units meet inspection standards. The following checklist will be used by the Metro HRA Inspectors to ensure consistency in conducting virtual inspections. This list is not comprehensive.

General Unit Condition

Do your unit doors open, close and lock properly? **TEST all entry doors**
Do all the windows open, stay up, close, and **lock**? Is there any broken glass? **TEST all accessible windows**
Is there a working smoke alarm on every floor? **TEST all**
Is there a working Carbon Monoxide detector within 10 feet of every bedroom? **TEST**
Do all the outlets and lights work?
Do you have any infestation problems? (mice, roaches, bed bugs) If yes, confirm.
Are there any issues outside the unit that you feel should be addressed? (loose handrails, broken steps)
Does the garage door opener operate and close with one push of the closer button?

Kitchen

Does your refrigerator cool and freeze properly?
Do all the stove top burners and oven work?
Does the hood vent or microwave work?
Do you have hot and cold water to the sink?
Does the sink drain?
Are there any water leaks?

Bathroom(s)

Do you have hot and cold water to the sink and bathtub?
Do the sink and tub drain?
Are there any water leaks?
Does the toilet operate, flush, and empty?
Does the vent fan operate?

Utilities

Do you have adequate heat?
Do you have adequate hot water?
Does the water heater and furnace vent properly? **VERIFY / VIEW**
Do you have any drains that are backing up or do not drain?
Do you have any water leaks or water intrusion into the unit?
Do the washing machine and dryer work?
Is the dryer vent attached and vented to the outside? **VERIFY / VIEW**

If a unit was built in 1978 or prior and there are children aged six or under, the unit is not eligible for a virtual inspection.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

PHA Policy

- Both the family and the owner will be given reasonable notice of all inspections. Inspections may be scheduled between 7:00 a.m. and 5:00 p.m. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. The PHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

PHA 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 PHA will inspect the unit in coordination with the owner or owner's representative. The presence of a family representative is permitted but is not required.

8-II.B. INITIAL HQS INSPECTION

[24 CFR 982.405(a)]

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet housing quality standards before the PHA approves assisted tenancy. However, PHAs have two options for bringing units under HAP Contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. The PHA may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified; and/or
- Passed an alternative inspection in the last 24 months.

If the PHA adopts the alternative inspection option in combination with the non-life-threatening

deficiencies option, the PHA must follow family and owner notification requirements listed at 24 CFR 982.406(f). Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

Approving Units with Non-Life-Threatening Deficiencies [FR Notice 1/18/17; Notice PIH 2017-20; FR Notice 5/7/24; and 24 CFR 982.405(j)]

The PHA may approve assisted tenancy, execute a HAP Contract, and begin paying HAP if a unit fails an initial inspection, but only if the deficiencies identified are non-life threatening. This is known as the "NLT option." A PHA that implements the NLT option may apply the option to all of the PHA's initial inspections or may limit it to certain units. If the NLT option is adopted, the PHA must follow requirements listed at 24 CFR 982.405(j) for family and owner notification.

The PHA's administrative plan must specify the circumstances under which the PHA will exercise the NLT option, if any.

PHA Policy

- The unit must meet all required inspection standards on or before the effective date of the HAP Contract.
- The PHA will not rely on alternative inspections and will conduct an inspection for each unit prior to executing a HAP Contract with the owner.

Approving Units Using Alternative Inspections [FR Notice 1/18/17; Notice PIH 2017-20; FR Notice 5/7/24; and 24 CFR 982.406]

The PHA may approve assisted tenancy, execute a HAP Contract, and begin paying HAP if a unit passed an alternative inspection (i.e., an inspection conducted for another housing program) conducted in the last 24 months provided the PHA is able to obtain the results of the alternative inspection, the property received a "pass" score (if applicable), and the inspection meets the requirements at 24 CFR 982.406(c) and (d). The PHA may implement the use of alternative inspections for both initial and periodic inspections or may limit the use of alternative inspections to either initial or periodic inspections. If alternative inspections are used, the PHA must follow requirements listed at 24 CFR 982.406(e)(2) for family and owner notification.

A PHA relying on an alternative inspection must identify the alternative inspection method being used in the PHA's administrative plan.

PHA Policy

- The PHA will not rely on alternative inspections and will conduct an initial inspection for each

unit prior to executing a HAP Contract with the owner.

Timing of Initial Inspections [24 CFR 982.305(b)(2)(i)]

Unless the PHA relies on alternative inspections, HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies housing quality standards, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection.

PHA Policy

- The PHA will complete the initial inspection, determine whether the unit satisfies inspection standards, and notify the owner and the family of the determination in a reasonable, timely and efficient manner indicative of good customer service.
- Initial inspections will only be done on vacant units or units occupied by the tenant named on the inspection.

Inspection Results and Reinspections

For new units proposed for the HCV program, life-threatening deficiencies must be resolved before the HAP Contract is executed and the family moves into the unit.

PHA Policy

- If any deficiencies are identified, the owner will be notified of the deficiencies and be given a time frame to correct them.
- If the HAP Contract expires because more than 60 days have elapsed from the Contract date or repairs will not be completed, the PHA will notify the owner and the family that the unit has been denied and that the family will be issued a new voucher.
- Following a determination of a denied unit, the family may submit a new Request for Tenancy Approval for a new unit or the same unit if the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

PHA Policy

- Utility services must be in working order at the initial inspection.

Appliances [Form HUD-52580]

PHA Policy

- If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other inspections standards requirements. The required appliances must be in place before the HAP Contract is executed by the PHA. The PHA will execute the HAP Contract based upon a certification from the family that the appliances have been installed and are working.

8-II.C. PERIODIC INSPECTIONS

[24 CFR 982.405(b) and Notice PIH 2016-05]

HUD requires the PHA to inspect each unit under HAP Contract at least biennially (or triennially for small rural PHAs), to confirm that the unit still meets NSPIRE standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

PHA Policy

- The PHA will conduct an inspection at least biennially within 24 months of the last full housing quality inspection and at other times as needed, to determine continuing compliance with housing quality standards. The PHA reserves the right to require annual inspections of any unit or owner at any time.

Scheduling the Inspection

PHA Policy

- If an adult cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA will allow only one reschedule of the inspection.
- If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

8-II.D. INTERIM INSPECTIONS

[24 CFR 982.405(d)]

If a participant family or government official notifies the PHA of a potential deficiency, the following applies:

- If the reported deficiency is life-threatening, the PHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of PHA notification.
- If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from the PHA or within any PHA-approved extension.

PHA Policy

- During an interim inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record 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 interim inspection is scheduled the PHA may elect to conduct a full annual inspection.

8-II.E. SUPERVISORY QUALITY CONTROL INSPECTIONS

[24 CFR 982.405(b), 24 CFR 985.3(e); HCV GB p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the NSPIRE standards.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Correction Timeframes [Notice PIH 2024-26, REV-1]

Each deficiency is identified in the NSPIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP Contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

~~**The following is applicable to HAP Contracts executed or renewed June 5, 2024, or earlier:**~~

~~**Correction Timeframes**~~

~~Each deficiency is identified in the NSPIRE standards as either life-threatening, severe, moderate, or low.~~

~~For units under HAP Contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.~~

~~**The following is applicable to HAP Contracts executed or renewed June 6, 2024, or later:**~~

~~**Notification of Corrective Actions**~~

~~The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies deficiencies, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.~~

~~PHA Policy~~

- ~~When life-threatening deficiencies are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.~~
- ~~When failures that are severe or moderate are identified, the PHA will send the owner and the family a written notification of the inspection results. The written notice will specify the time-frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction. If low deficiencies are identified, these deficiencies will only be noted for informational purposes.~~
- ~~The notice of inspection results will inform the owner that if life-threatening conditions are not~~

~~corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).~~

~~**The following is applicable to HAP Contracts executed or renewed June 6, 2024, or later:**~~

Notification of Corrective Actions [24 CFR 982.404(d)(1)]

The owner must maintain the unit in accordance with housing quality standards. The unit is in non-compliance with housing quality standards if:

- The PHA or authorized inspector determines the unit has housing quality standards deficiencies based upon an inspection
- The PHA notified the owner in writing of the unit housing quality standards deficiencies; and
- The unit's housing quality standards deficiencies are not corrected within the required timeframes.

A PHA may withhold assistance payments for units that have deficiencies once the owner has been notified in writing of the deficiencies. The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP. In this case, if the unit is brought into compliance during the applicable cure period, the PHA must resume assistance payments and provide payments to cover the time period for which the payments were withheld.

The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period. The PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP Contract for the unit and the family will have to move to receive continued assistance.

PHA Policy

- The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies housing quality standards failures, the PHA will determine whether or not the failure is a life-threatening condition.
- The PHA will not withhold assistance payments upon notification of the deficiencies to the owner.
- When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The corrective actions must be taken within 24 hours of the PHA's notice.
- When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within five business days of the

inspection. The written notice will specify 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 PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).

Extensions

For life-threatening deficiencies, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate ~~[24 CFR 982.404]~~.

PHA Policy

- Extensions will be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:
  - A reasonable accommodation is needed because the family includes a person with disabilities.
  - For repairs that may only be completed in warmer weather (May through October) in Minnesota (exterior concrete and paint, including windowsills), a supervisor or the inspections coordinator may approve an extension beyond the contract/lease amendment effective date.
  - Delays caused by a third-party (e.g. contractor, Homeowner Association approval, parts supplier)
  - As determined necessary by the Inspection Supervisor or Inspection Coordinator.
- The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 30 calendar days, once the weather conditions have subsided.

Reinspections [24 CFR 982.405(i)]

When a PHA must verify correction of a deficiency, the PHA may use verification methods other than another on-site inspection.

PHA Policy

- The PHA will conduct a reinspection or obtain a photo or video of the repaired deficiency in some cases from the owner as quickly as possible following the owner notifying the PHA that repairs have been completed.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with NSPIRE standards, the PHA must take prompt and vigorous action to enforce the owner obligations.

~~**The following is applicable to HAP Contracts executed or renewed June 5, 2024, or earlier:**~~

~~**HAP Abatement**~~

~~If an owner fails to correct deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of deficiencies that are the family's responsibility.~~

~~PHA Policy~~

- ~~The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA specified correction period (including any extension).~~

~~During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.~~

~~**HAP Contract Termination**~~

~~The PHA must decide how long any abatement period will continue before the HAP Contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.~~

~~PHA Policy~~

- ~~The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP Contract, the PHA may rescind the termination notice if (1) the family still resides in the~~

~~unit and wishes to remain in the unit and (2) the unit passes inspection.~~

- ~~If the owner fails to comply with HQS within 60 days or the family gives notice to move, the family will be issued a voucher to permit the family to move to another unit as described in Chapter 10.~~
- ~~The PHA will provide 30-day notice of any HAP Contract termination.~~

~~**The following is applicable to HAP Contracts executed or renewed June 6, 2024, or later:**~~

HAP Withholding [24 CFR 982.404(d)(1)]

A PHA may withhold assistance payments for units that have housing quality standards deficiencies once the PHA has notified the owner in writing of the deficiencies. The PHA's administrative plan must identify the conditions under which the PHA will withhold HAP. In this case, if the unit is brought into compliance during the applicable cure period, the PHA resumes assistance payments and provides assistance payments to cover the time period for which the payments were withheld.

PHA Policy

- The PHA will not withhold assistance payments upon notification to the owner of the deficiencies.

HAP Abatement [24 CFR 982.404(d)(2)]

The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period. In this case, the PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP Contract for the unit and the family will have to move to receive continued assistance. The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period (within 24 hours of notification for life-threatening deficiencies and within 30 days of notification (or other reasonable period established by the PHA) for non-life-threatening deficiencies) (24 CFR 982.404(d)(2)(i)).

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance.

PHA Policy

- For non life-threatening deficiencies, the PHA will make all HAP abatements effective the first of the month following the expiration of the PHA-specified correction period (including any extension).

During any abatement period the family continues to be responsible for its share of the rent.

For PHA policies on family moves when units are in abatement and termination of the HAP Contract when a family moves due to deficiencies, see Section 10-I.B.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP Contract will be terminated. If the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP Contract for the unit and the family will have to move to receive continued assistance. In this case, the PHA must issue the family its voucher to move at least 30 days prior to the termination of the HAP Contract.

PHA Policy

- The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP Contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.
- Reasonable notice of HAP Contract termination by the PHA is 30 days.
- The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS

[24 CFR 982.404(b)]

The following is applicable to HAP Contracts executed or renewed June 5, 2024, or earlier:

Families are responsible for correcting any deficiencies listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

The following is applicable to HAP Contracts executed or renewed June 6, 2024, or later:

If the PHA waived the landlord responsibility for housing quality standards deficiencies that have been determined to have been caused by the tenant, any member of the household, or

any guest or other person under the tenant's control, (see section 8-I.D), the family is responsible for correcting any housing quality standards violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair and may enter into a repayment agreement with the family.

PHA Policy

- The owner is responsible for all housing quality violations. However, if the family's actions constitute a serious or repeated lease violation, the cost to repair the deficiency may be assessed against the security deposit under state law or in court practice.

PART III: RENT REASONABLENESS

[24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP Contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) may assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term.

Subsequent requests for rent adjustments must be consistent with the lease between the

owner and the family. Rent increases will not be approved unless any failed items identified by the most recent inspection have been corrected.

PHA Policy

- After the initial lease term, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four units. In evaluating the proposed rents in comparison to other units on the premises the PHA may consider unit size and length of tenancy in the other units.
- The PHA will determine whether the requested increase is reasonable, and the owner and family will be notified.
- All rent adjustments will be effective the first of the month following a minimum of 30 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 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 PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

PHA Policy

- In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial lease term period if:
    - The PHA determines that the initial rent reasonableness determination was in error or
    - the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: HCV project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on

the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than four units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

PHA Policy

- The PHA will collect and maintain data on market rents in the PHA's jurisdiction. Information sources may include newspapers, realtors, market surveys, inquiries of owners and other available sources.

How Rents Are Determined

PHA Policy

- The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA may develop a listing of average rents for comparable units by bedroom size within defined market areas. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA may make adjustments to approvable rent to account for these differences.
- To determine a unit rent is reasonable, a minimum of three comparable units must be identified. On that rare occasion when three comparables cannot be identified justification must be documented.
- The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The PHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations.

EXHIBIT 8-1: AFFIRMATIVE HABITABILITY REQUIREMENTS

Affirmative Habitability Requirements: Inside
Must include at least 1 battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property.
Must meet or exceed the carbon monoxide detection standards set by the Secretary through *Federal Register* notification.
Any outlet installed within 6 feet of a water source must be GFCI protected.
Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
Must have permanently mounted light fixtures in any kitchens and each bathroom.
May not contain unvented space heaters that burn gas, oil or kerosene.

Affirmative Habitability Requirements: Outside
Any outlet installed within 6 feet of a water source must be GFCI-protected.
Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.

Affirmative Habitability Requirements: Unit
Must have hot and cold running water in the bathroom and kitchen, including an adequate source of safe drinking water in the bathroom and kitchen.
Must include its own bathroom or sanitary facility that is in proper operating condition and usable in privacy. It must contain a sink, a bathtub or shower, and an interior flushable toilet.
Must have at least one battery-operated or hard-wired smoke detector, in proper working condition, in the following locations: • On each level of the unit AND • Inside each bedroom or sleeping area AND • With 21 feet of any door to a bedroom measured along a path of travel AND • Where a smoke detector is installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed in the living area side of the door.
If the unit is occupied by a hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.
Must have a living room and a kitchen area with a sink, cooking appliance, refrigerator, food preparation area and food storage area.
Must have two working outlets or one working outlet and one permanent light fixture within all habitable rooms.
Must have a permanently mounted light fixture in each bathroom and in the kitchen.
Outlets within 6 feet of water source must be GFCI-protected.
Must have permanently installed heating source.
No units may contain unvented space heaters that burn gas, oil or kerosene.
Must have a guard rail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
Must have at least one bedroom or living/sleeping room for each two persons.

CHAPTER 9: GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and pass applicable housing quality standards [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of their rights and obligations under the Violence against Women Act (VAWA). [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history of drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, sexual assault, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24CFR 5.2007(b)(4)].

PHA Policy

- The PHA will not screen applicants for family behavior or suitability for tenancy.
- The PHA will not provide additional screening information to the owner without authorization to release information provided by the tenant.

9-I.B. REQUESTING TENANCY APPROVAL

[Form HUD-52517 and 24 CFR 982.302]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

The RTA must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

The PHA must identify in the administrative plan whether the family will be permitted to submit more than one RTA at a time [24 CFR 982.54(d)(25)].

PHA Policy

- The RTA must be signed by both the family and the owner.
- The owner may submit the RTA on behalf of the family.
- Completed RTA (including the proposed dwelling lease) may be submitted as hard copies, in-person, by mail, by email, or by fax.
- The family may not submit, and the PHA will not process, more than one (1) RTA at a time.
- When the family submits the RTA the PHA will review the RTA for completeness.
    - If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the PHA will notify the family and the owner of the deficiencies.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone~~, fax,~~ or email. The PHA will use mail when the parties cannot be reached by phone~~, fax,~~ or email.

9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the

HCV program [24 CFR 982.306(e)].

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units [24 CFR 982.352(b)]

PHA-owned units as defined in 24 CFR 982.4 may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA. The PHA must obtain the services of an independent entity to perform certain functions as described in 24 CFR 982.352(b)(v)(A).

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Initial Inspection [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in safe and habitable condition and pass applicable housing quality standards. See Chapter 8 for a full discussion of the inspection standards, as well as the process for inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 5.703(d)(5)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full

discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. PHA LEASING ASSISTANCE FOR FAMILIES

Notice PIH 2022-18

PHAs may utilize their Unrestricted Net Position (UNP, or administrative fee reserves) or ongoing administrative fees towards activities designed to help assist HCV families in leasing units under the program. Such activities include providing security deposit assistance, utility deposit assistance, assisting with all or some of the application fee or similar fees, and holding fees.

PHA Policy

- The PHA will not utilize UNP or ongoing administrative fees to pay security deposits, utility deposits, assist with application or similar fees, or holding fees.

9-I.F. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)].

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

PHA Policy

- The PHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial term of the lease is also stated in the HAP Contract.

HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

PHA Policy

- The PHA will approve an initial lease term of less than one (1) year. If a lease term of less than one (1) year is approved, participant must still comply with PHA policy allowing only one move in a twelve (12) month period as outlined in 10-I.B. Restrictions on Moves.
- Exceptions to this policy are listed in Chapter 12.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP Contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP Contract [Form HUD-52641].

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

PHA Policy

- The PHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

- Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.
- Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

All non-optional fees and agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease. The PHA will not review agreements for detached or optional garages.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.
PHA Policy

- If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or ~~by fax~~email. The PHA will not accept missing and corrected information over the phone.
- Because the initial leasing process is time-sensitive, the PHA will attempt to communicate with the owner and family by phone or email. The PHA will use mail when the parties can't be reached by phone or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR.982.308(c)].

PHA Policy

- The PHA will not review the owner's lease for compliance with state/local law.

9-I.G~~F~~. TENANCY APPROVAL

[24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets housing quality standards; the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

PHA Policy

- The PHA will complete its determination after receiving all required information.
- If the terms of the RTA/proposed lease are changed for any reason including contract rent and or utility responsibility, the PHA will document the RTA changes and obtain signed lease changes by both parties.
- Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.
- If the tenancy is not approvable due to rent affordability or rent reasonableness, the PHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.HG. HAP CONTRACT EXECUTION

[24 CFR 982.305]

The HAP Contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP Contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP Contract.

The HAP Contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP Contract.

The term of the HAP Contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP Contract even if the funding currently available does not extend for the full term of the HAP Contract.

The PHA must make a best effort to ensure that the HAP Contract is executed before the beginning of the lease term. Regardless, the HAP Contract must be executed no later than 60 calendar days from the beginning of the lease term. Any HAP Contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner, unless there are extenuating circumstances that prevent or prevented the PHA from meeting the 60-day deadline – then the PHA may submit to the HUD field office a request for an extension no later than two weeks after the 60-day deadline.

The PHA may not pay any housing assistance payment to the owner until the HAP Contract has been executed. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP Contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP Contract (a maximum of 60 days).

Any HAP Contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner unless there are extenuating circumstances that prevent or prevented the PHA from meeting the 60-day deadline, in which case the PHA may submit to the HUD field office a request for an extension. The request, which must be submitted no later than two weeks after the 60-day deadline, must include an explanation of the extenuating circumstances and any supporting documentation. HUD at its sole discretion will determine if the extension request is approved.

PHA Policy

- The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The owner and the PHA will execute the HAP Contract. The PHA will not execute the HAP Contract until the owner has submitted IRS form W-9. The PHA will ensure that the owner receives a copy of the executed HAP Contract.

See Chapter 13 for a discussion of the HAP Contract and contract provisions.

9-I.I~~H~~. CHANGES IN LEASE OR RENT

[24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP Contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP Contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the initial term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

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

PHA Policy

- Where the owner is requesting a rent increase, the PHA will determine whether the requested increase is reasonable. The owner will be notified of the determination.
- Rent increases will go into effect on the first of the month following the minimum of 30-day period after the owner notifies the PHA of the rent change or on the date specified by the owner, whichever is later.

CHAPTER 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I. MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in Section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

PHA Policy

- If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family member of the family, or affiliated individual is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family, family member or affiliated individual who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)] The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.20057(e).
    - PHA Policy
        - If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, sexual assault, human trafficking, dating violence, or stalking, the PHA will request documentation in accordance with Part 16-IX of this plan.
        - The PHA has adopted an emergency transfer plan, which is included as Exhibit

16-3 to this plan.

- The PHA has terminated the HAP Contract for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. FAMILY MOVES DUE TO UNIT DEFICIENCIES

Units in Abatement [24 CFR 982.404(d)(3)]

An owner may not terminate the tenancy of a family due to the PHA withholding or abating HAP for housing quality standards deficiencies that are not repaired timely. During the period that assistance is abated, the family may terminate tenancy by notifying the owner and the PHA. If the family chooses to terminate tenancy, the HAP Contract will automatically terminate on the effective date of tenancy termination or the date the family vacates the unit, whichever is earlier. The PHA must promptly issue the family its voucher to move.

Termination of HAP Contract and Family Moves [24 CFR 982.404(e)]

For HAP Contracts executed or renewed on or after June 6, 2024, if an owner fails to make required repairs within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA must terminate the HAP Contract. In this case, the PHA must issue the family its voucher at least 30 days prior to the termination of the HAP Contract. The family must be provided at least 90 days following the termination of the HAP Contract to lease a new unit, although the PHA may provide a longer period as the PHA determines is reasonably necessary.

PHA Policy

- The PHA will issue a family whose HAP Contract is being terminated due to an owner failing to make required repairs within the required time frame a voucher no later than 30 days prior to the termination of the HAP Contract. The initial term of the voucher will be 120 calendar days.
- To continue under the tenant-based HCV program, the family must submit a Request for

Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension. The PHA will follow the policies set forth in Chapter 5 on voucher extension and expiration.

Offer of Public Housing [24 CFR 982.404(e)(2)]

If the family is unable to lease a new unit within the term of the voucher. and the PHA owns or operates public housing, the PHA must offer, and if accepted, provide the family a selection preference for an appropriate-sized public housing unit that first becomes available for occupancy after the time period expires.

PHA Policy

- The PHA does not own or operate public housing units.

Relocation Assistance [24 CFR 982.404(e)(3)]

PHAs may assist families relocating due to the HAP Contract being terminated as a result of the owner failing to make required repairs within the required time frame in finding a new unit, including using up to two months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, such as security deposits, temporary housing costs, or other reasonable moving costs as determined by the PHA based on their locality.

The PHA must assist families with disabilities with locating available accessible units in accordance with 24 CFR 8.28(a)(3).

10-I.C. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of PHA's to deny permission to

move due to insufficient funding and places further requirements on PHA's regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

PHA Policy

- The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the PHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.
- If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed inspection), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.
- For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.
- The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).
- The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective

move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, sexual assault, dating violence, human trafficking, or stalking and the move is needed to protect the health or safety of the family or family member (For the policy on documentation of abuse, see section 10-I.A.). In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

PHA Policy

- The PHA will deny a family permission to make more than one move during any 12-month period. This includes moves to units within the same complex, within the HRA's jurisdiction or to units outside the HRA's jurisdiction through portability.
- Moving without giving proper notice to the owner will result in the HRA terminating program assistance.
- If the voucher holder is not current on a repayment agreement with the HRA or has failed to enter into a required repayment agreement with the HRA or owes money to a current landlord, a request to move may be denied and or assistance terminated.
- Voucher holders choosing to port out of Metro HRA's jurisdiction will be required to pay in full any money owing to the Metro HRA prior to the move.
- The HRA will continue to approve leases with terms shorter than one year, but a program participant must have resided in a unit for a minimum of 12 assisted months, for the HRA to approve a move.
- If the program participant decides to move before the 12-month minimum, assistance may be terminated, unless an exception is approved.

The PHA will consider exceptions to these policies in the following circumstances:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, dating violence, sexual assault, stalking and witness protection programs, other documented crime when a member of the household is the victim of the crime).
- Reasonable accommodation requests associated with the disability or serious illness of a member of the participant family.
- Fire, flood or other natural disaster (dependent upon situation/seriousness).
- Moves with less than proper notice at the time of annual recertification.
- Mutual Termination
    - In the case of Mutual Termination and/or Landlord issued vacate notices, the PHA may

require a settlement agreement that includes working with Outreach Coordinator and attending Tenant Education Classes.

- Landlord issued vacate notices
- Unit is sold by the landlord or is in foreclosure.
- Other extenuating circumstances documented and approved

The PHA will not consider exceptions to this policy in the following circumstances:

- Court ordered evictions

10-I.D. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner, in writing before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2). The notices must be in writing [24 CFR 982.5].

Approval

PHA Policy

- Notice must be submitted to the HRA in accordance with the lease and must be submitted to the HRA in writing with proper notice prior to moving out.
- Upon receipt of a family's notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The PHA will notify the family of its determination.

Reexamination of Family Income and Composition

PHA Policy

- For families approved to move to a new unit in or out of the PHA's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

Voucher Issuance and Briefing

PHA Policy

- For families approved to move to a new unit within the PHA's jurisdiction, the PHA will issue a new voucher. The PHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the PHA approves.
- If a PBV family terminates the lease in accordance with 24 CFR 983.260, Family Right to Move, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.
- For families moving due to an owner failing to make required repairs timely, result in the PHA terminating the HAP Contract, the PHA will follow the policies set forth earlier in this section and in Chapter 8, Part II.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP Contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP Contract on behalf of the family.

PHA Policy

- If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP Contract on behalf of the family for the new unit.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the *initial PHA*. The PHA that has jurisdiction in the area to which the family wants to move is called the *receiving PHA*.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA is the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within ten (10) business days of the determination to deny the move [24 CFR 982.355(e)].

PHA Policy

- In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B. of this chapter.

In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

PHA Policy

- If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the initial PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.
- The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating

violence, sexual assault, stalking, or human trafficking. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease as determined by court action. [24 CFR 982.3539b).] The Violence against Women Act of 2005 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an family member who is or has been a victim of domestic violence, sexual assault, dating violence, human trafficking, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1); 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

PHA Policy

- For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of the family income and composition.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant and participant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

PHA Policy

- No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the PHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).
- The PHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area. The PHA will not provide any additional information about receiving PHAs in the area.
- The PHA will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to families, the PHA will follow the regulations and procedures set forth in Chapter 5.

Voucher Extensions and Expiration

PHA Policy

- The initial PHA will approve no extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances:
    - The initial term of the voucher will expire before the portable family will be issued the voucher by the receiving PHA
    - The family decides to return to the initial PHA's jurisdiction and search for a unit there, or
    - The family decides to search for a unit in a third PHA's jurisdiction.
- In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

PHA Policy

- In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:
  - Social security numbers (SSNs)
  - Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
  - Documentation of citizenship or eligible immigration status
  - ~~Documentation of participation in the earned income disallowance (EID) benefit~~
  - Documentation of participation in a family self-sufficiency (FSS) program

- If applicable to the family's health and medical care and disability expense phased-in hardship exemption, including what state the family is in and how many months remain in that phase-in stage.

- The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document if the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

PHA Policy

- If the PHA has not received an initial billing notice from the receiving PHA by the deadline and does not intend to honor the late billing, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The PHA will send the receiving PHA a written confirmation of its decision by mail.
- The PHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

PHA Policy

- If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapter 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA's

procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA [24 CFR 982.355(c)(4)].

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

PHA Policy

- The PHA will require a family to attend an intake appointment that includes a briefing packet (as described in Chapter 5) and an oral briefing to inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the inspection process and participant obligations.

Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

PHA Policy

- For any family moving into its jurisdiction under portability, the PHA may conduct a new reexamination of family income and composition. However, the PHA will not delay issuing the family a voucher for this reason.
- In conducting its own reexamination, the PHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

The receiving PHA will issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

PHA Policy

- The receiving PHA's voucher will expire 30 calendars days from the expiration date of

the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2016-09]

Once the receiving PHA issues the portably family voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP Contract, and deliver the initial billing to the initial PHA.

PHA Policy

- The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.
- The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities or an exception for families covered by VAWA (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another

jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2016-09]

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for while the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorate ongoing administrative fee for 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be received no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail or email.

- PHA Policy
    - The PHA will send its initial billing notice by email to meet the billing deadline

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving

PHA is over leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination

The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

PHA Policy

- The PHA will send a copy of the updated HUD-50058 by regular mail no later than ten (10) business days after the effective date of the reexamination.

Change in Billing Amount

The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP Contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than ten (10) business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within ten (10) days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day

of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2016-09]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than ten (10) business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1); Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated HUD-52665 to the initial PHA no later than ten (10) business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

PHA Policy

- If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.
- If the PHA decides to absorb a family after that, it will provide the initial PHA with adequate notice, but no later than ten (10) business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

CHAPTER 11.A.: REEXAMINATIONS

INTRODUCTION

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 11.B. of the model policy.

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS

[24 CFR 982.516]

11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

PHA Policy

- The PHA will begin the annual reexamination process approximately 90 – 120 days in advance of its scheduled effective date. The PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.
- Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).
- The annual recertification process will be conducted by one or more of the following:
    - Online
    - In person
    - Through the mail
- If the family moves to a new unit, the PHA will perform a new annual reexamination.
- If participation in the annual recertification process poses a hardship because of a family members' disability, the family should contact the PHA to request a reasonable accommodation

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

PHA Policy

- Families are required to participate with the annual reexamination process, this may include completing a phone interview with HRA staff.
- Notification of annual reexamination will be sent electronically and will contain information regarding the requirements to complete the annual recertification process.
- Families that fail to cooperate with the first notice to complete their annual recertification process will receive a second and final notice.
- The Metro HRA will consider other forms of communication under extenuating circumstances or as a reasonable accommodation, persons with disabilities.
- If participation in the annual recertification process poses a hardship because of a family members' disability, the family should contact the PHA to request a reasonable accommodation.
- Notification regarding free interpretation service, upon request will be provided with all letters sent to participants for their annual recertification process.
- If a family fails to comply with the required recertification process, a notice of termination will be sent to the family or to any secondary contact designated by the family.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

- PHA Policy
    - Families must provide required information (as described in the reexamination notice) to complete the annual recertification. The required information will include, but not be limited to, Tenant Information Form, Authorization for the Release of Information/Privacy Act Notice, supporting documents or forms related to the family's income, expenses, and family composition.
    - If the family is unable to obtain the required documentation within the required time period to complete the recertification, the family will be granted an

additional ten (10) business day period. If the family does not provide the required documents or information within the required time frame, the family will be sent a notice of termination (See Chapter 12).

- The PHA may request or schedule an in-person or phone interview. Families may be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.
- If the family does not provide required documents or information within the required time (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

- PHA Policy
  - At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA will reevaluate the eligible voucher size according to policy for determining voucher size (see Chapter 5).

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS

[24 CFR 982.552(b)(5)]

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

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

PHA Policy

- During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from their parents or is considered a vulnerable youth based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.
- If the student is no longer income eligible based on their own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.
- If the student continues to be income eligible based on their own income and the income of his/her parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

PHA Policy

- In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified in advance.
    - If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract.
    - If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.
- In general, a decrease in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.
    - If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
    - If the 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 PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

PART II: INTERIM RENT CHANGES

[24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

PHA Policy

- The PHA will conduct interim reexaminations when there is a change in household composition that occur between annual reexaminations.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, court-awarded custody, in accordance with MN Stat. 524.5-.211 Delegation of Parental Authority, or by written permission of the parent or other person having custody of the child, does not require PHA approval.

However, the family is required to notify the PHA within 30 days of the addition [24 CFR

982.551(h)(2)].

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, court-awarded custody or in accordance with MN Stat. 524.5-.211 Delegation of Parental Authority, or by written permission of the parent or other person having custody of the child, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of space standards (see Chapter 8), the PHA will issue the family a new voucher according to policy (see Chapter 5). If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

PHA Policy

- Families must request PHA approval to add a new family member, live-in aide, foster child or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 cumulative days and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.
- The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3). If the PHA determines that an individual does not meet the PHA's eligibility criteria as defined in Chapter 3, and documentation requirements (see Chapter 7) the PHA will notify the family of its decision to deny approval of the new family or household member and the reasons for the denial.
- The PHA will not approve an addition if it will cause a violation of space standards. However, if the approval of a new family member or live-in aide will cause overcrowding according to space standards, the approval letter will explain that the family may be issued another voucher and will be required to move.
- The PHA will make its determination after receiving all information required to verify the individual's eligibility.
- If the addition of the family member increases the subsidy standard, the change will be

effective at the next recertification or if the family moves.

Departure of a Family or Household Member

Families must notify the PHA within 30 days if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

PHA Policy

- If a household member ceases to reside in the unit, the family must inform the PHA within 30 days of the change. This requirement also applies to a family member who has been considered temporarily absent (not to exceed 180 days) at the point that the family concludes the individual is permanently absent (see Chapter 3, 3-I.L. Absent Family members).
- If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the PHA within thirty (30) business days.

Changes in Family Unit Size (Voucher Size) [24 CFR 982.505(c)(6)]

Changes effective 12/3/24 and later: 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 may be used to determine the payment standard immediately or at the family's first regular reexamination following the change in family unit size.

PHA Policy

- If the family unit size (voucher size) changes during the term of a HAP contract, the new family unit size will be used to determine the payment standard at the family's first regular reexamination following the change in family unit size.

For reference and audit purposes, for changes effective 12/2/24 and earlier: Irrespective of any increase or decrease in the payment standard, if the family unit size increased or decreased during the HAP contract term, HUD required the new family unit size to 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.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that

changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA Required Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA.

PHA Policy

- Families are required to report all changes in family income within 30 days of the change.
- Changes in rent will occur according to the following:
  - The PHA determines the family's subsidy is based on zero income of the household. Changes must be reported within thirty (30) days of the change. Interim increases will be implemented no later than the first of the month following 90 days after the change has occurred. Unreported changes in income may require the execution of a participant repayment agreement.
  - ~~The household experiences a decrease in income.~~
  - ~~A participant is eligible for Earned Income Disallowance (EID) and an exclusion period ends.~~
  - The PHA 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.
  - If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file but will not conduct an interim reexamination.
  - 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].
  - If a family reports a decrease in income due to child support reduction, an interim will be processed 6 months after the effective decrease if supported with a 12-month history report of payments received unless benefits end due to death, incarceration or emancipated minor.
  - If a family reports a decrease in an income source, any replacement income will be considered in processing the interim change.

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Family-Initiated Interim Reexaminations

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The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the PHA conduct an interim within a reasonable time any time the family requests due to a change in income or family composition since the last determination [24 CFR 982.516(c)(2)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

- PHA Policy
  - Families are required to report all increases in income, both earned and unearned. The PHA will only conduct an interim if the increase is due to a new source of income, including returning to work for a previous employer, or the resumption of previously terminated/ suspended benefits. In all other cases, the PHA will note the information in the file, but will not conduct an interim reexamination.
  - Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

- PHA Policy
  - If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.
  - If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the PHA will conduct an interim

reexamination. See Section 11-II.D. for effective dates.

- Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

PHA Policy

- The interim recertification process will be conducted by one or more of the following:
  - Online
  - In person
  - Through the mail
- Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.
- Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, electronically, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

PHA Policy

- If the family share of the rent is to increase:
  - Interim increases will be implemented no later than the first of the month following 90 days after the change has occurred.
  - If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied

retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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- If the family share of the rent is to decrease:
    - The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified by the participant until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

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

Payment Standards [24 CFR 982.505 and FR Notice 5/7/24]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard when the PHA changes its payment standard or when there is a change in family composition.

~~The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.~~

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

- ~~If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:~~

  - ~~If the payment standard amount has increased, the increased payment standard will~~

be applied at the first annual reexamination following the effective date of the increase in the payment standard.

- If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size (voucher size) that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's first annual reexamination following the change in family unit size as identified in Section 6-III.C.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8]

PHA Policy

- Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner
- The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

PHA Policy

- The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

CHAPTER 12: TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in the family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE

[24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

PHA Policy

- If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP to rise above zero, the family must notify the PHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.
- The PHA will not enter into a Housing Assistance Payment contract at initial lease up (New Admissions, Port-in, Move) if the eligible housing assistance payment equals zero.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

PHA Policy

- The request to terminate assistance should be made in writing and signed by the head of household, if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2); 24CRR 5.2005(c)(1)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under

the HCV program for a serious ~~or repeated~~ violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as a serious ~~or repeated~~ violation~~s~~ of the lease by the victim or threatened victim of such violence or stalking.

PHA Policy

- If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the PHA will consider the factors as described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.
- *Serious ~~and repeated~~ lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form, they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

~~Upon the PHA's HOTMA 102-104 compliance date, the below policy on failure to provide consent is added:~~

PHA Policy

- The PHA will also terminate assistance if the family revokes consent for the PHA to collect information from financial institutions.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for

assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA 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 PHA determined the family to be noncompliant.

PHA Policy

- The PHA 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 983.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate the assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and

FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The PHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member'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

PHA Policy

- The PHA will terminate a family's assistance with evidence of criminal or violent activity. This includes, but is not limited to:
  - Any household member has been convicted or adjudicated within the last three (3) years of felony drug-related criminal activity.
  - Any household member has been convicted or adjudicated within the last three (3) years of violent criminal activity.
- The PHA will consider any record of convictions, or court ordered eviction of household members related to the use of illegal drugs or abuse of alcohol or credible evidence of current drug-related or violent criminal activity.
- In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and 12-II.E.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

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

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

PHA Policy

- If the PHA has credible evidence that such criminal activity exists, the PHA may require that the household provide additional information.
- The PHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related, violent or other criminal activity during participation in the HCV program.
- The PHA will consider any record of convictions of household members or other credible evidence related to drug-related, violent criminal activity or other criminal activity.
- In making its decision to terminate assistance, the PHA will consider alternatives as

described in Section 12-II.C and 12-II.E.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E the Violence Against Women Act prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

- PHA Policy
    - The PHA *will not* terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency programs.
    - The PHA *will* terminate a family's assistance if:
        - The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

PHA Policy

- Any family member absence exceeding thirty (30) days must be reported to the HRA. If the family is absent from the unit for more than 180 consecutive calendar days, the

family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Upon the PHA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

PHA Policy

- The PHA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the PHA's HCV program.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contract if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. The PHA must identify in the Administrative Plan, in the event of insufficient funding, taking into account any cost saving measure taken by the PHA, a description of the factors the PHA will consider when determining which HAP Contracts to terminate first [24 CFR 982.54(d)(26)].

PHA Policy

- The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP Contracts, the PHA will determine if any other actions can be taken to reduce program costs.
- If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP Contracts as a last resort.
- If the PHA terminates current participants for insufficient funding, households will be terminated beginning with the latest program admission date.
- Prior to terminating any HAP Contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a

level within the PHA's annual budget authority.

- Disabled families, elderly families, and families utilizing special purpose vouchers including Nonelderly Disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), Mainstream, Emergency Housing Vouchers (EHV), Foster Youth to Independence (FYI) and Family Unification Program (FUP) will be the last to be terminated.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION

[24 CFR 982.552(a)(3)]

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

- Terminating housing assistance payments under a current HAP Contract,
- Refusing to enter into a new HAP Contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

PHA 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, or other certification/documentation requested by the PHA. Exceptions may be made if the information is unknown or if the disclosure poses a risk of violence to the participant.

Repayment of Family Debts

PHA Policy

- If a family owes amounts to the PHA, as a condition of continued assistance, the PHA 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 PHA of the amount owed. See Chapter 16 for policies on repayment agreements

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

See Exhibit 12-1: Statement of Responsibilities

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

PHA Policy

- The PHA 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 evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be provided is more probably than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes that use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

PHA Policy

- On a case-by-case basis the PHA may offer an assisted family a settlement agreement prior to taking an action to terminate assistance.

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

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

PHA 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 PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence Against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections Against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program as do the limitations discussed under the next heading.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notice PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, sexual assault, dating violence, stalking, or human trafficking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)]. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction [Form HUD-5380].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, stalking, or human trafficking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without terminating assistance to, or otherwise penalizing the victim of the violence [24 CFR 5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, sexual assault, dating violence, sexual assault, stalking, or human trafficking so long as the PHA does not subject the victim to a more

demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, action, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

PHA Policy

- In determining whether a program participant who is a victim of domestic violence, sexual assault, dating violence, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:
    - Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking
    - Whether the threat is a physical danger beyond a speculative threat
    - Whether the threat is likely to happen within a short period of time
    - Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

- If the participant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]
PHA Policy

- When an individual facing termination of assistance for reasons related to domestic violence, sexual assault, dating violence, stalking, or human trafficking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.
- The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until thirty (30) days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP Contract.

PHA Policy

- The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.
- In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and Section 16-IX. The PHA will also consider the factors in section 12-II.D. If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.
- If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with the applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

PHA Policy

- The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.
- The PHA will give the family written notice that specifies:
    - Metro HRA's language block including statement of free interpreter services,
    - The reasons for which assistance has been terminated,
    - The effective date of the termination,
    - The family's right to request a reasonable accommodation or protection under VAWA
    - The family's right to an informal hearing as described in Chapter 16

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA requires PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

PHA Policy

- Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY

[24 CFR 982.310, 24 CFR 5.2005(c) and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, sexual assault, dating violence, stalking, and human trafficking and the victim is protected from eviction by the Violence Against Women Act (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any covered person, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful

enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

However, in the case of criminal activity directly related to domestic violence, sexual assault, dating violence, stalking, or human trafficking 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 (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause

damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

12-III.C. EVICTION

[24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

PHA Policy

- If the eviction action is finalized in court, the owner must provide the PHA with a copy of the judgment that has been entered and the 15-day appeal period has passed.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY

[24 CFR 982.310(h); 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taking all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's actions 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 supervise drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owners decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, stalking, or human trafficking is limited by the Violence Against Women Act (VAWA) and the conforming regulation in 24 CFR Part 5, Subpart L (see Section 12-II.E).

12-III.E. EFFECT OF TENANCY TERMINATION OF THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: METRO HRA HCV STATEMENT OF RESPONSIBILITIES

The PHA may alter or revise the *Statement of Responsibilities* to reflect changes as deemed necessary for effective program administration or required by HUD.

Metro HRA
RENT ASSISTANCE STATEMENT OF RESPONSIBILITIES

Continued participation in the Housing Choice Voucher and other rent assistance programs is dependent on following the Statement of Responsibilities. Participants are responsible for the conduct of their guests.

Cooperation
I understand I am required to cooperate in supplying all information requested in the timeframe required by the HRA to determine my eligibility and amount of rent assistance. Cooperation includes attending pre-scheduled appointments, completing, signing and returning needed forms, disclosing and verifying the Social Security Numbers for all family members, cooperating with the inspection process and providing evidence of citizenship or eligible immigration status for all family members.

Giving True and Complete Information
I certify that the information given to the Metro HRA on my household members, income, assets and allowances is true, accurate and complete to the best of my knowledge and belief.

Reporting Household Members
I understand and certify that:
- The people I have listed on my information sheet are the only people that live or stay in my home.
- **I must notify the HRA within 30 days, in writing**, if anyone moves in or out of my home (including any birth, adoption, custody, Delegation of Parental Authority or marriage).
- I must provide the HRA a copy of written approval from my landlord for all household members added to my lease.
- New adult household members must be approved by the HRA.
- Metro HRA may increase my voucher size when household members are added by birth, adoption, court-awarded custody, Delegation of Parental Authority or marriage.

Definitions:
Household member – a person who **cannot** verify a permanent address elsewhere and lives or stays in my home more than 30 days.
Guest – a person who **can** verify a permanent address elsewhere and lives or stays in my home less than 30 days.

Reporting Household Income
The HRA is required to review my household income when I start the program and every year thereafter. I understand and certify that:
- I must provide true and complete information regarding my income as requested by the HRA.
- If I have changes in my household income, I must report it to the HRA in writing within 30 days of the change.
- I may request that HRA review my rent portion if I experience a decrease in income.
- I must provide the HRA any required verification before a rent change will be made.
- I will be required to pay back rent overpaid on my behalf due to untimely reporting or non-cooperation.

Lease Violations, Evictions and Moving Without Notifying Landlord
I understand and certify that:
- Any household members or guests must not commit any serious or repeated violation of the lease. Serious and repeated lease violations will include but are not limited to nonpayment of rent, utilities or other fees, moving without proper notice, disturbance to neighbors, unauthorized guests, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.
- I must give the HRA a copy of any eviction notice I receive **within 15 days of receipt of the notice.**
- If any member of my household or guests commit serious or repeated lease violations, I am evicted by court order or I move out before the end of my lease without my landlord's permission, the HRA will terminate my rent assistance.

Inspections
The HRA is required to inspect my home prior to rental assistance beginning and every year thereafter to make sure it is safe, functional, and habitable housing. I understand and certify that:
- I must allow the HRA to inspect my unit at reasonable times and after reasonable notice.
- Full assistance will not be paid if my unit does not pass inspection prior to or on my move in date or recertification date.
- If full assistance is not paid due to failed inspection, it is my responsibility to negotiate the rent difference with the owner.
- Inspection violations caused by my household members or guests must be corrected in the time provided by the HRA.
- An adult, 18 years or older, must be present for the inspection.

Moving

I understand and certify that:

- My household can only receive rent assistance in one (1) unit in any twelve (12) month period. This includes moves to units within the same complex, within the HRA's service area.
- If I move prior to living in a unit for 12 months, my assistance may be terminated, even if I sign less than a 12 month lease.
- **I must give proper notice to my landlord according to the terms of my lease.**
- If I move **prior** to the end of my lease, I must submit to the HRA a mutual agreement signed by my landlord.
- I understand that an exception may be considered in accordance with the Violence Against Women Act (VAWA) or as a reasonable accommodation request.
- I must be current with any repayment agreement in order to move within Metro HRA's jurisdiction. If I choose to move outside of Metro HRA's jurisdiction any debt must be paid in full, prior to porting my voucher to another housing authority.

The HRA may deny permission to move with continued assistance if:

- I move prior to fulfilling the twelve (12) month minimum requirement;
- My household has violated the Statement of Responsibilities;
- I owe money to any HRA or my current landlord;
- I have not given a proper written notice to the HRA and my landlord.

Drug-Related or Violent Criminal Activity Notice

I understand that my assistance will be denied or terminated if:

- Any member of my household has been convicted or adjudicated within the **last three (3) years** or there is credible evidence of current criminal activity for any of the following:
  1. drug-related criminal activity;
  2. violent criminal activity; or
  3. other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises, including alcohol abuse.
- I have been **evicted within the last three years** from federally assisted housing.
- Any household member has been convicted of manufacturing or producing methamphetamine (permanent denial).
- Any household member that is currently registered as a sex offender under lifetime registration requirement (permanent denial).

Duplicate Assistance/Own/Sublease

I understand and certify that:

- The HRA assisted unit will be my only residence and I will not receive rental assistance for any other unit for the same time period.
- Household members living in my home are not living in another rental unit or receiving another rent subsidy.
- I must not own or have any ownership interest in the HRA assisted unit.
- I must not sublease or rent any part of my unit to anyone else.

Side Payments

Definition: Paying money to my landlord over my HRA approved rent portion.

I understand and certify that:

- All lease agreements between my landlord and I must be approved by the HRA.
- I am not allowed to pay my landlord any more than my rent portion as approved by the HRA.
- Making a side payment or entering into a separate lease is a violation of the Housing Choice Voucher Program.
- Payments made to my landlord and approved by the HRA for additional amenities such as garages, pet deposit, washer and dryer are not considered side payments.

Absence from Unit

I understand and certify that:

- Any family member can be absent from my unit for a total of 180 days. I must notify the HRA of household member absences exceeding 30 days. The family is required to report and provide documentation of the absence to establish a beginning and end date of absence. Family members absent from the unit for more than 180 days will be permanently removed from the household. If the entire family is absent more than 180 days, the HRA may terminate my assistance.

Debts Owed to a Housing Authority

I understand my rental assistance may be denied or terminated if:

- I owe rent or other amounts to Metro HRA or to any other HRA in connection with the Housing Choice Voucher or Public Housing programs.
- I am not current with any repayment agreements.

Summary of Reasons for Termination of Rent Assistance

The HRA wants you to be successful while receiving rent assistance. Here are some reasons the HRA may terminate your rental assistance. The HRA may terminate my rental assistance for violating any of the Statement of Responsibilities or Program Rules, including, but not limited to:

- Providing false information to the HRA, fraud, bribery or any other corrupt or criminal act in connection with the program;
- Failing to attend pre-scheduled appointments with the HRA;
- Not cooperating with the inspection process;
- Not cooperating with providing information requested by the HRA;
- Failing to report household members and changes in income, assets or allowances;
- Moving without giving proper notice to my landlord or the HRA or fulfilling the terms of my lease;
- Moving prior to living in an assisted unit for twelve (12) months;
- Committing serious or repeated lease violations;
- Being evicted by a court order;
- Engaging in drug-related, violent, or other criminal activity, including alcohol abuse;
- Violating inspection standards caused by my household or guests (including failure to pay utilities and damage to home);
- Making side payments to my landlord above my HRA approved rent portion;
- Family absence (all family members absent) from the unit for more than 180 days without HRA approval;
- Owing money to any HRA or to current landlord;
- Receiving rent assistance for more than 1 unit;
- Engaging in or threatening abusive or violent behavior toward Metro HRA personnel. Abusive or violent behavior 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. *Threatened* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Revoking signatures on HUD-9886-A Authorization form

Criminal and administrative action for False Information

I understand that false statements or information are punishable under federal law. I understand that false statements or information are grounds which could result in theft and fraud charges under the state and federal law.

Signature and Date of All Household Adults (Head and Spouse and All Household Members 18 and over) I have read and understand the Statement of Responsibilities. I understand that violation of these rules may result in termination of assistance:

1. _____ Date: _____
2. _____ Date: _____
3. _____ Date: _____
4. _____ Date: _____
5. _____ Date: _____
6. _____ Date: _____
7. _____ Date: _____
8. _____ Date: _____

If you believe you have been discriminated against, you may call the Fair Housing and Equal Opportunity National Toll-Free Hot Line at 1-800-669-9777.

IMPORTANT INFORMATION The Metro HRA provides free interpreter services, upon request.
معلومات مهمة تقدم Metro HRA خدمات الترجمة الشفوية مجانا عند الطلب.
COV LUS QHIA TSEEM CEEB Qhov chaw Metro HRA muaj neeg txhais lus dawb, yog koj xa tau kev pab.
ВАЖНАЯ ИНФОРМАЦИЯ По Вашей просьбе Metro HRA может бесплатно предоставить Вам услуги переводчика.
INFORMACIÓN IMPORTANTE Metro HRA proporciona interpretes a su pedido, gratis para Usted.
MACLUUMAAD MUHIIM AH Metro HRA waxa ay idiin heli kartaa tarjubaan lacag la'aan ah, haddii aad codsataan.

Metro HRA
PROGRAM INFORMATION
Rent Assistance Programs

Moving

Metro HRA has specific policies that need to be followed in order to move with continued rent assistance. Consider the following questions:

- Have you fulfilled your lease with your current landlord?
- Have you lived in your current home for at least 12 months with Housing Choice Voucher rent assistance?
- HRA only allows rent assistance in 1 unit in a 12 month period.
- Did you give proper notice to your landlord according to the terms of your lease and provide a copy of the notice to the Metro HRA?
- Do you owe money to Metro HRA, any other PHA or your current landlord?

When the above is complete, what can you expect?

1. The Metro HRA cannot guarantee rental assistance will be provided on the first of the month following your move out date.
2. You will get a move packet in the mail from your HRA Coordinator if you are eligible to move. This will include a full review of your household members, income and deductions.
3. You will be issued a Voucher to begin your housing search when your income review is complete.
4. You must sign and return the Voucher to the HRA.
5. When you find a new home, you need to have the new landlord fill out the Request for Tenancy Approval (RTA).
6. HRA will determine if the rent is reasonable for the unit you selected.
7. HRA will request an inspection.
8. HRA will require a copy of the lease you have signed with the landlord.
9. HRA will enter into a Housing Assistance Payments Contract with your new landlord to begin making rent assistance payments on your behalf.

If moving outside the Metro HRA service area

If you are moving outside of the Metro HRA's service area, rules will change. Your new housing authority may have different rules regarding bedroom size, eligibility, RTA deadlines and will determine when your rent assistance will begin. The Metro HRA will forward your file to the housing authority where you are moving.

The process **MAY** cause delays in the start of your rental assistance in your new unit. Be prepared. The receiving housing authority must approve the unit you select and the unit must pass an inspection. If you move into the unit before final approval from the new housing authority, you may be held responsible for the full rent on the unit.

Repayment agreements must be paid in full, prior to the issuance of a voucher to move out of the Metro HRA jurisdiction.

Can you rent from a relative?

You cannot receive Housing Choice Voucher assistance in a home owned by a parent, child, grandparent, grandchild, sister or brother of any member of your household. The HRA may approve renting from a relative as a reasonable accommodation for a family member who is a person with disabilities. It is your responsibility to request an accommodation for HRA consideration.

Reasonable Accommodation / Violence Against Women Act (VAWA)

An exception to program rules may be considered in accordance with the Violence Against Women Act (VAWA) or as a reasonable accommodation request for persons with disabilities. It is your responsibility to contact the HRA and request an accommodation, in writing, if you are a victim of VAWA or a person with disabilities. You must explain what accommodation or exception is being requested and how it will help you use the HRA programs. The request must be reasonable.

Where can you use your Rental Assistance (Portability)?

Housing Choice Voucher rent assistance can be used anywhere in the United States where there is a housing authority operating the Housing Choice Voucher progam. However, if you are receiving assistance for the first time, you may be required to live in Metro HRA's service area for one year prior to moving to another housing authority's service area.

Who will screen your rental application?

Landlords are responsible for screening all tenants for suitability. The HRA must give prospective owners your current address and your current and previous landlord's name and address, if known to the HRA.