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City of Miami

Department of Housing and Community Development

Housing Choice Voucher (HCV) and Moderate Rehabilitation Programs

Administrative Plan

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Chapter 1 – Applicability and Scope

1.1 Purpose of the Plan

The purpose of the Administrative Plan is to establish the City of Miami policies for carrying out the Housing Choice Voucher and the Moderate Rehabilitation program in a manner consistent with HUD requirements as well as local goals and objectives contained in the City's Public Housing Agency ("PHA") plan.

Programs Covered by the Administrative Plan

Housing Choice Voucher Program ("HCV") The Housing Choice Voucher program is a tenant-based rental assistance program in which the participants choose the unit, within the local government's jurisdiction, where they will live in.

Section 8 Moderate Rehabilitation Program ("Mod-Rehab") The Mod-Rehab program is governed by federal statute, regulations at 24 CFR 882 and the Housing Assistance Payments contract for the program. This program provides project-based rental assistance for low-income families. The US Congress repealed the program in 1991 and no new projects have been authorized since then.

Policies are applicable to all programs unless otherwise noted in this plan.

Mission Statement

The primary objective of the Housing Choice Voucher (“HCV”) and Mod-Rehab programs is to assist eligible low-income families to obtain decent, safe and sanitary housing. The mission of the City of Miami Department of Housing and Community Development is to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

General

The Department of Housing and Community Development is the designated Public Housing Agency ("PHA") for the City of Miami. The HCV and Mod-Rehab programs are responsive mechanisms for providing housing assistance for low and very-low income households. The rental subsidy enables tenants to afford standard units while providing rental income sufficient to meet the operating expenses of landlords.

Hereinafter, the administrative plan will refer to the City of Miami Department of Housing and Community Development as the PHA.

The policies and procedures contained herein are applicable to the implementation of housing assistance payments on behalf of eligible families by leasing existing housing pursuant to the provisions of Section 8 of the U.S. Housing Act of 1937 for the Housing Choice and Replacement Voucher programs. The basic guidelines for this plan are governed by requirements of 24 CFR Part 882 (Mod-Rehab Program) and Part 982 (HCV Program) and other applicable regulations and requirements of the U.S. Department of Housing and Urban Development (HUD). HUD allows public housing authorities broad discretion to adopt local policies for operation of tenant-based programs. This plan reflects the exercise of policy choices by the PHA and incorporates those policy topics required by HUD regulation. The PHA's policies and procedures articulated herein are subject to change in accordance with applicable HUD requirements. Any provision of federal law or regulation, or change in such law or regulation, which is inconsistent with or contrary to the provisions of this plan, shall supersede the provisions of this Plan. Where not inconsistent, the provisions of federal law or regulation shall apply in conjunction with the provisions of this plan.

This plan is not a comprehensive statement of HUD's program regulations or the PHA's procedures for program administration, but is intended to provide applicants, participants and owners with a basic understanding of the PHA's Housing Choice Voucher and Mod-Rehab Programs. For more information, applicants, participants and owners are directed to:

- HUD's regulations found in the Code of Federal Regulations under Title 24 and HUD Document 7420.1 OG, the Housing Choice Voucher Program Guidebook;

The PHA's primary responsibilities are:

- Informing eligible families of the availability of program assistance;
- Encouraging owners to make their units available for lease by Section 8 participants;
- Determining the maximum amount of housing assistance payments that can be used for rent assistance and family-paid utilities; and posting the utility allowances annually;
- Receiving applications from families and determining their eligibility for assistance;
- Inspecting Section 8 units to determine if they meet or exceed Section 8 National Standards for the Physical Inspection of Real Estate (NSPIRE) and Housing Quality Standards (HQS);
- Approving leases;
- Making Housing Assistance Payments to owners; and
- Performing annual and periodic re-examinations of income, family composition and redetermination of rent.

Updating and Revising the Plan

PHA will review this administrative plan as needed to comply with changes in HUD regulations. The original plan and *substantial changes* must be approved by City Commission. Changes that are not substantial in nature shall be done administratively.

Unless otherwise explicitly indicated, all reference to *day(s)* in this plan shall be read as calendar day(s)**.**

Substantial Amendment/Changes to the Admin Plan:

- Any change that adds or removes a Chapter in its entirety;
- Any modification of Income Targeting and/or Local Preferences when selecting clients from the waiting list.

Non-Substantial Amendment/Changes to the Admin Plan:

- Changes required to comply with minimum HUD requirements shall not be considered substantial in nature and shall be incorporated administratively;
- Changes arising from urgent needs due to emergency or disaster situations;
- Any other change not considered a Substantial Amendment/Change to the Admin Plan.

Chapter 2 – Income Targeting and Local Preferences

2.1 Income Targeting

Not less than 75 percent of the families admitted to the PHA's tenant-based voucher program (Housing Choice Voucher (HCV) Program) during the PHA's fiscal year from the PHA's waiting list shall be extremely low income families (30 percent or less of AMI). Exception to this federal requirement shall be governed by 24 CFR Section 982.201.

- Families will be selected from the waiting list based on the numerical position assigned by the lottery and by the local preferences listed under *"2.2 Identification of Local Preferences".* If it is necessary to meet the statutory requirements that 75 percent of *newly admitted families* in any fiscal year will be families who are extremely low-income, the PHA retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears that the requirement will not otherwise be met.

  To ensure that this requirement is met, the PHA will monitor incomes of newly admitted families and the income of the families on the waiting list. If there are not enough extremely low-income families on the waiting list, the PHA will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement. The remaining 25 percent of new families can be up to the very low income level (up to 50 percent AMI)

"Extremely low-income" households are households whose adjusted annual income does not exceed 30 percent of area median income (AMI) as determined by HUD.

2.2 Identification of Local Preferences

Federal regulations permit a housing authority to establish a system of preferences for the selection of families admitted to the program, based on local housing needs and priorities determined solely by the local public housing authority. The PHA reserves the right to change these preferences to respond to changes in local housing needs or emergency housing situations. The PHA will only provide preference selection to those households that meet the preference eligibility criteria at time of selection from the waiting list.

The following categories represent preferences for selection from both the PHA's Housing Choice Voucher waiting list and Mod-Rehab waiting list:

Elderly family:

- A family whose head or spouse (or sole member) is 62 years or older and/or a family that includes an elderly person(s).

Disabled family:

- A family whose member(s) include a person(s) who is under a disability as defined in Section 223 of the Social Security Act (42 U. S. c. 423) or has a developmental disability as defined in section I02(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U. S. C. 6001(7)); or
- A family whose member(s) include a person(s) having a physical or mental impairment that (a) is expected to be of a long-continued and indefinite duration; (b) substantially impedes his or her ability to live independently; and (c) is of such nature that such ability could be improved by more suitable housing.

Equal weight will be given to one or more of these preferences i.e. a household/applicant who is both elderly AND disabled will be given the same preference as a household who is only elderly OR disabled.

In order to be eligible to apply and to qualify for the preference categories, sufficient documentation must be provided by the applicant prior to admission as required by the PHA under this Plan. Applicants may provide additional documentation while on the waiting list that may improve their ranking.

- *Elderly family member(s):* Documentation must be provided of birth date or senior citizen elderly status. A birth certificate, third-party verification or sworn affidavit will constitute sufficient documentation.
- *Disabled family member(s):* Documentation must be provided that an applicant family member(s) is disabled. A social security disability award letter or a medical letter that supports that the applicants meet the definition will constitute sufficient documentation.

Mainstream Voucher Program

Mainstream Vouchers are regular HCVs that serve a special population of households. All Mainstream Vouchers serve households that include a non-elderly person with disabilities, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old at the effective date of initial Housing Assistance Payment (HAP) Contract, (i.e., the effective date of the New Admission [action code = 1] on the form HUD-50058).

Admission Preference for Mainstream Vouchers

Mainstream voucher assistance will be administered following the same policies and procedures of the HCV program under this Plan with the exception of:

- It is specifically targeted to families with at least one non-elderly (18 years of age or older and less than 62 years of age on the date of new admission submitted to HUD) AND,
- Meet one of the following *additional admission preference criteria*:

- Currently experiencing homelessness;
- Previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project;
- At risk of experiencing homelessness.

NOTE: adopting this admission preference does not necessarily mean that every applicant that receives a Mainstream Voucher will meet any of the *additional admission preference criteria*

Initial Search Term. The City will provide a minimum initial search term of 120 days for Mainstream Voucher applicants. The initial 120-day term will also apply when a family chooses to move to a new unit with continued assistance inside or outside the PHA's jurisdiction in accordance with 24 CFR 982 subpart H. (Notice PIH 2024-30 (6)(a)). When issuing a Mainstream Voucher, the City also will provide a current listing of available accessible units known to the City and, if necessary, otherwise assist the family in identifying an accessible unit (24 CFR 8.28(a)(3)).

Extensions of Term. If a family requires additional time for their unit search, the City will provide an extension policy for Mainstream Vouchers that includes the following: 1) each extension will be for a minimum of 90 days, 2) the City will approve the first extension request, regardless of how the request is made (written or verbal) or when it is made, as long as the request is made on or before the term expiration date and is consistent with applicable requirements; subsequent requests will be processed in accordance with the City's Administrative Plan, and 3) the City will, on at least one occasion after voucher issuance, notify the family prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search. This extension policy also applies to current Mainstream Voucher participants who choose to move to a new unit with continued assistance inside or outside the City's jurisdiction, in accordance with 24 CFR 982 subpart H. (Notice PIH 2024-30 (6)(b)).

Residency (Local) Preference. The City will not apply a residency preference to Mainstream Voucher applicants. (Notice PIH 2024-30 (6)(c)).

Waiting List

PHA will utilize its existing HCV waiting list to find Mainstream Voucher-eligible applicants. PHA will not reassign existing HCV participants to the Mainstream Voucher program to make regular HCV vouchers available. PHA will not admit any tenants without following the waitlist procedures and will only maintain one HCV waitlist with preferential criteria for those households that qualify for Mainstream Vouchers while these special type of vouchers are available.

PHA will perform a *Full Waiting List Update* to determine if current HCV waiting list applicants meet the eligibility criteria for Mainstream Vouchers and the new preferences adopted. The following will be performed:

i. PHA will send letter to current HCV waiting list applicants to identify if there is any household member(s) who is both non-elderly and disabled and if the household qualifies for the new additional admission preference criteria;

ii. Based upon the results of the mail out, the existing HCV waiting list will be updated to reflect the new waitlist order specific to the new admission preferences for Mainstream Vouchers;

iii. Mainstream Voucher-eligible households will start to be called in for an admission eligibility interview based on their waiting list order. The Mainstream Voucher-eligible household will not lose its original place in the HCV waiting list if no more Mainstream Vouchers were to be available.

If the waiting list does not contain any applicant who is Mainstream Voucher-eligible, the PHA will advertise the availability of these special vouchers and work with the local Continuum of Care (CoC) to find eligible applicants. These applicants may be referred from the "Moving On" program (see below) which will allow for eligible individuals, currently part of Permanent Supportive Housing (PSH), who no longer require intensive supportive service to transition to the Mainstream Voucher program; therefore, maintaining housing stability.

Other Mainstream Voucher Program Considerations

Once eligible, participants do not 'age out' of eligibility – Existing families receiving Mainstream Vouchers, where the eligible member is no age 62 or older, will NOT 'age out' of the Mainstream Voucher Program as long as the family was eligible on the day it was first assisted under a HAP Contract.

If the Mainstream Voucher-eligible family member is no longer part of the household, a remaining member of the household can continue to receive assistance as long as such members were part of the household (and on the lease) at the time of the eligible household's member's death. This will not apply in situations where the disabled member of the household decides to leave at his/her own will. In such case, assistance will be terminated.

Definitions

Non-Elderly Person

Must be at least 18 years of age or older and less than 62 years of age on the date of the initial HAP Contract signing and the submission of action type 1 (New Admission) to HUD.

Non-Elderly Person with Disabilities (for the purpose of determining eligibility)

An eligible non-elderly person who:

- Has a disability as defined by 42 USC 423, which means; Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that 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, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness, as defined in section 416(i)(1) of this title, means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater

than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.

- Has a physical, mental, or emotional impairment that:
  a. Is expected to be of long-continued and indefinite duration;
  b. Substantially impedes his or her ability to live independently; and
  c. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- Has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act 42 U.S.C. 6001(8)), i.e., a person with a severe chronic disability that:
  a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  b. Is manifested before the person attains age 22;
  c. Is likely to continue indefinitely;
  d. Results in substantial functional limitation in three or more of the following areas of major life activity:
     1. Self-care,
     2. Receptive and expressive language,
     3. Learning,
     4. Mobility,
     5. Self-direction,
     6. Capacity for independent living, and
     7. Economic self-sufficiency; and
  e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

Homeless

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

a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus, train station, airport, or camping ground;

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

c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

Imminent Risk of Homelessness

An individual or family who will imminently lose their primary nighttime residence, provided that:

i. Residence will be lost within 14 days of the date of application for homeless assistance;

ii. No subsequent residence has been identified; and

iii. The individual or family lacks the resources or support networks needed to obtain other permanent housing

Homeless under other Federal Statutes

Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

i. Are defined as homeless under the other listed federal statutes;

ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;

iii. Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and

iv. Can be expected to continue in such status for an extended period of time due to special needs or barriers.

Fleeing Attempting to Flee Domestic Violence

Any individual or family who:

i. Is fleeing, or is attempting to flee, domestic violence;

ii. Has no other residence; and

iii. Lacks the resources or support networks to obtain other permanent housing.

At risk of becoming homeless: An individual or family who:

1. Does not have sufficient resources or support networks, (e.g., family, friends, faith based or other social networks), immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1)(a) of the "Homeless" definition; and
2. Meets one of the following conditions:
   a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
   b. Is living in the home of another because of economic hardship;
   c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
   d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

f. Is exiting a publicly-funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Moving On Program

PHA implemented the Moving On Program, a local, non-traditional program intended to serve formerly homeless persons transitioning out of permanent supportive housing who no longer require intensive supportive services to maintain housing stability. The Moving On Program initiative supports tenants who are successful in their recovery to live more independently using a federal subsidy while accessing community based resources, as needed. Additionally, the program frees up valuable permanent supportive housing and services for vulnerable homeless individuals in need of these resources.

Admission Process

PHA will partner with the local Continuum of Care (CoC) to administer the program. Any agency utilizing the Coordinated Entry System (CES) model to provide appropriate supportive services and housing to homeless persons may provide referrals to the CoC for purposes of the Moving On Program.

The Moving On waitlist will utilize date, time, and a Moving On preference as selection criteria for program applicants. To ensure eligibility for the Moving On preference, the Homeless Trust will evaluate candidates and provide referrals to PHA for placement onto the HCV waiting list with the Moving On preference selected.

The assessment process will require utilization of a common assessment tool by the partner to ensure viable candidates are identified for the program. As Moving On subsidies become available, applicants are selected from the HCV waitlist according to the date and time of the referral as well as the Moving On preference. The initial eligibility process requires verification of meeting the Moving On criteria. Applicants for whom the Moving On verification cannot be obtained will be denied eligibility.

The waitlist selection, initial/ongoing eligibility, and termination processes are administered following HCV policies and procedures.

Supportive Services:

Although participants of the Moving On program have demonstrated the ability to maintain stable housing, the stresses related to a transition into the Moving On program may cause a certain degree of relapse. For this reason, PHA may require community providers to offer an appropriate level of supportive services through the transition and ongoing, as necessary, until stability is ensured.

Chapter 3 – Waiting List Management

3.1 Applying for Assistance

Any family that wishes to receive HCV Program or Mod-Rehab Program assistance must apply for admission to the program. The PHA opens and maintains two separate waiting lists, one for the Housing Choice Voucher (HCV) Program and one for the Mod-Rehab Program. However, at the sole discretion of the PHA, one waiting list that captures both the HCV Program AND the Mod-Rehab Program may be established and maintained.

The application process involves two phases:

i. First phase – Initial Assessment and Placement on the Waiting List: is the initial application for housing assistance, or pre-application, and results in the family's placement on the waiting list.

ii. Second phase – Eligibility Screening: is the final determination of eligibility and verification of information presented. This takes place when the family reaches the top of the waiting list. The PHA will ensure that verification of all preferences, eligibility, and suitability selection factors are confirmed so as to determine the family's final eligibility for admission into either the HCV Program or the Mod-Rehab Program.

3.2 Opening and Closing Waiting Lists[1]

The PHA may elect to open one or both waiting lists, at its sole discretion, if there are insufficient applicants for the Housing Choice Voucher Program or the Mod-Rehab Programs, or for one or more of the local preferences [24 CFR 982.205].

The opening and closing of registration periods will be announced via public notice advertised in a newspaper(s) of local general circulation and posted on the PHA's website. The public notice will state that applications for the Housing Choice Voucher program and/or the Mod-Rehab Program, as the case may be, will again be accepted. It will also describe where, when, and how to apply as well as any limitations to who may apply. The notice will include the Fair Housing logo and slogan and otherwise be in compliance with Fair Housing requirements.

If the PHA decides not to merge the waiting list for the HCV program with the waiting list for the Mod-Rehab program, the following must be taken into consideration [24 CFR 982.205(2)]:

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[1] *See exceptions and admission preferences on Mainstream Vouchers and Moving On Program*

i. If the PHA's waiting list for the HCV program is open *when* an applicant is placed on the PHA's Mod-Rehab Program waiting list (HCV program waiting list is open while Mod-Rehab program waiting list is open as well), the PHA must offer to place the applicant from the Mod-Rehab program waiting list applicant on the HCV program waiting list.

ii. Conversely, if the PHA's Mod-Rehab waiting list is open *when* an applicant is placed on the PHA's HCV waiting list (Mod-Rehab program waiting list is open while HCV program waiting list is open as well), the PHA must offer to place the applicant from the HCV program waiting list on the Mod-Rehab program waiting list if the PHA has units suitable for the applicant.

i. First Phase – Initial Assessment and Placement on the Waiting List

All applicants will be required to complete a pre-application form ("application"), which will contain information necessary for the PHA to make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list. The PHA will use the application as the basis for follow-up phone calls, correspondence or direct appointments, if necessary.

The standardized application form will be posted on the PHA's web-site and distributed at different locations (i.e. public library, neighborhood enhancement teams-NET offices, etc.) This application acceptance process will accommodate an applicant who has difficulty traveling to the PHA office, either because of a disability, hospitalization, childcare constraints or employment schedule. Reasonable accommodations will be afforded to those elderly or disabled applicants that may need support to apply through this method.

Because of the limited size of the City of Miami program the waiting list application period shall remain open for a minimum of one (1) day.

Completed applications shall be returned to the PHA by mail, instead of applying in person. The postmark date on the envelope that contains the mailed application will be the final determining factor on whether an application has been sent within the qualified time-period.

Upon receipt of applications, the PHA will make a preliminary determination of eligibility. If the PHA determines the family to be ineligible, a letter will be sent to the applicant. The notice will state the reason(s) and offer the family the opportunity for an ***informal review*** of this determination.

If the PHA anticipates receiving far more applicants than it can assist in a reasonable period of time, the PHA reserves the discretion to establish rules in advance of the open application period which limit the number of applicants to be placed on the waiting list. If no rules are established in advance, the PHA will limit the maximum number of applicants to be placed on the waiting list to 100.

Each of the HCV and Mod-Rehab programs' waiting lists will be generated by a random lottery process, not by date and time of receipt of applications. One lottery shall be conducted for the HCV waiting list and another lottery shall be conducted for the Mod-Rehab Program (waiting list processes for these two programs will usually be done at different dates). Ranking for each list is done through a computerized application and is verified by a neutral third party.

The rules that govern who qualifies to participate in the computer lottery selection are as follows:

1. Only complete applications shall be considered.
2. Only applications that are eligible for admission will be considered.
3. Only one application will be allowed per family/household. Families who submit more than one application will be disqualified. Applications will be screened for duplicity to ensure that the applicant or any other adult family member listed in the application has not submitted another application. Submitting more than one application per household will be grounds for disqualification from this process. No informal review opportunity will be provided.
4. Completed applications shall be returned to the PHA by mail, instead of applying in person. Only applications received by mail at the mailing address designated by the PHA and by the application deadline will be considered. The postmark date on the envelope that contains the mailed application will be the final determining factor on whether an application has been submitted within the open waiting list period. Applications postmarked after the publicly noticed date for the closing of the open waiting list period will be rejected.
5. The designated mailing address will be accepting correspondence for 14 days after the application deadline. The postal service must have delivered all correspondence mailed by the application deadline within this time frame. If for any reason whatsoever, applications are received past this 14-day period, such applications will not be considered and will be directly discarded. The PHA has no control over the mail delivery process of the postal service. No informal review opportunity will be provided.
6. The computer-generated lottery will randomly rank all of the qualified mail-in applications or, if a limit was established in advance, randomly select and rank a designated number of qualified mail-in applications.
7. Once the waiting list is created, local preferences will be applied.
8. Applications submitted by persons without a valid SSN will be disqualified. The program will not provide assistance to persons who do not hold legal status in the US.

After the lottery selection is conducted and local preferences applied, a report will be generated that will list all of the applicants alphabetically by name and numerically by social security number ("post-lottery report"). The pre-lottery report and the post-lottery report will be maintained for the active duration of the waiting list for audit control purposes. The numerical position assigned by the computer and the local preference ranking will be added to the applicant's application.

The PHA will provide written notification confirming initial acceptance of the application to those included in the waiting list. The notice will also inform applicants that it is their responsibility to notify the PHA immediately of any changes affecting (1) their eligibility status or (2) the PHA's ability to locate the applicant. The applicant's failure to comply with these requirements is grounds for removal from the waiting list.

ii. Second Phase – Eligibility Screening

As vouchers become available, when a waiting listed family approaches or reaches the top of the waiting list, the family will be invited to an eligibility screening appointment and the final verification process will be completed. It is at this point in time that the family's local preference will be verified. All the remaining eligibility-related documents must be submitted at this time. All required signatures must be obtained.

The PHA reserves the right to screen applicants for criminal or drug-related activity during the intake process if information or allegations are brought to the PHA's attention. Ultimately, the rental unit's owner is responsible for screening the applicants' suitability for tenancy.

PHA's application for admission may request and include, but may not be limited to, the following information for each application: family composition and income, social security numbers, applicant's race and ethnicity; dates of birth; disability, immigration status of each family member, local preference and contact information necessary to allow the PHA to contact the applicant by mail and phone.

Notification of the legal status requirement

Applicants shall be notified at the time of application of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section. The notice shall:

1. State that financial assistance is contingent upon the submission and verification of evidence of citizenship or eligible immigration status;
2. Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted; and
3. State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements.

Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of 24 CFR 5.516 and 5.518.

All applicants will certify that the information provided in the application is true and accurate. Verification of all information provided will be sought as part of the eligibility process.

Income Targeting Requirement

[24 CFR 982.201(b)(2)]
Families will be selected from the waiting list based on the numerical position assigned by the lottery and the above stated preferences. If it is necessary to meet the statutory requirements that 75 percent of newly admitted families in any fiscal year will be families who are extremely low-income, the PHA retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears that the requirement will not otherwise be met.

To ensure that this requirement is met, the PHA will monitor incomes of newly admitted families and the income of the families on the waiting list. If there are not enough extremely low-income families on the waiting list, the PHA will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement. The remaining 25 percent of new families can be up to the very low income level (up to 50 percent of the area median income as determined by HUD)

Non-Transferability of Applications; Exceptions

Waiting list applications are nontransferable, except under the following conditions:

1. If the head of household deceases prior to or during the application process, one of the remaining adult family members on the application will automatically become the head of household, provided such person meets all eligibility requirements. In circumstances where there is more than one (1) surviving adult family member, the family shall determine which surviving family member should be head of household as long as they are part of the original application. The PHA shall not make the determination nor create more than one (1) application.
2. If the head of household is deceased and the remaining family members are minors, the person granted legal custody of such children will become the head of household and is entitled to the original application and ranking number, provided such person meets all eligibility requirements.

3.3 Removal/Purging of Applicants from the Waiting Lists

Applicant Responsibility for Maintaining Current Contact Information

All waiting list applicants are responsible for updating the PHA regarding changes of address and other contact information by contacting the PHA. Prior to removing an applicant's name from the applicable waiting list (HCV or Mod-Rehab Program) the PHA will examine the applicant's file to ensure that all reasonable means to contact the applicant have been exhausted (i.e. other contacts as displayed in application and/or case manager, if any.)

Removal from Waiting list

The PHA will not remove an applicant's name form the waiting list unless one of the following occurs:

1. The applicant requests in writing that his/her name be removed from the waiting list;
2. The applicant does not meet either the eligibility or screening criteria for the program;
3. The applicant has been offered a housing voucher;
4. Under the Mod-Rehab Program, the applicant has been offered housing, but has rejected such offer, for any reason whatsoever, two (2) times.

If a family is removed from the waiting list because PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of records as well as to any alternate address provided on the initial application. The notice will state the reason the family was removed from the waiting list and will inform the family how to request an ***informal review*** regarding the PHA's decision.

Purging the Waiting List

Periodically the PHA conducts mailings to purge inactive applicants from the waiting list. The purging of the waiting list enables the PHA to update the information regarding address, family composition, income category and preferences. Applicants will be removed from the waiting list when they have not maintained a current mailing address with the PHA or when correspondence to them is unanswered or

returned by the post office marked "undeliverable". An exception will be granted when an applicant has demonstrated that they have a disability that prevented them from responding to our correspondence.

All correspondence will be sent to the last address on record for the family. PHA reserves the right to purge the waiting list periodically, at its own discretion

3.4 Grounds for Denial of Assistance to Applicants on the Waiting List

The following will constitute grounds for denying assistance to applicants on the waiting list:

1. Failure to supply information or documentation required by the application process.
2. Failure to respond to a written request for information or a request to declare continued interest in the program.
3. Failure to complete any aspect of the application process.
4. Failure to meet all of the eligibility for admission criteria.
5. Violation of any of the family obligations under 24 CFR 982.551.
6. A participant, family member engaged in drug-related criminal activity or violent criminal activity or other criminal activity that is a threat to the health, safety or property of others.
7. A participant has committed fraud (bribery or any other corrupt or criminal act) at the time of application or during assisted tenancy.
8. Failure to make payments for monies owed to the City or another PHA.
9. If any household member has been evicted from public housing within the last three years.
10. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.
11. If it is determined that a family member has a lifetime registration under a State sex offender registration program.
12. An applicant or participant that abuses alcohol or drugs in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.
13. All applicants that fail to certify, prior to admission, that they do not have a pattern of illegal use of a controlled substance or pattern of abuse of alcohol that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Applicants may elect not to sign the Non-Alcohol and Drug Abuser Certification provided they demonstrate to the PHA's satisfaction that they are no longer engaging in the illegal use of a controlled substance or abuse of alcohol through one of the following means:

1. Applicant has successfully completed a supervised drug or alcohol rehabilitation program.
2. Applicant has otherwise been rehabilitated successfully.
3. Applicant is participating in a supervised drug or alcohol rehabilitation program.

3.5 Notification of Removal from Waiting List

Any applicant whose name is being removed from the waiting list will be notified by the PHA, in writing, that they have 15 days from the date of the written correspondence, to present mitigating circumstances or request an ***informal review***. The notice will also indicate that their name will be removed from the waiting list if they fail to respond within the specified timeframe.

The written notice may be given personally to the applicant or member of the family, but shall be sent by first class certified mail to the last known address on file and shall provide a brief statement of the reasons for the decision. The PHA's system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, the PHA will provide a reasonable accommodation. If the applicant indicates that they did not respond due to a disability, the PHA will verify that there is in fact a disability and that the reasonable accommodation they are requesting is necessary based on the disability.

3.6 Informal Review for Denying an Applicant

Informal reviews are strictly for program applicants. An applicant is a household that is in the process of applying for admission to the HCV or Mod-Rehab program, but is yet to become a program participant. ***Informal reviews*** are designed to provide a minimum hearing requirement as stipulated under 24 CFR 982.554. The PHA will provide an applicant an opportunity for an ***informal review*** of a decision refusing/denying an applicant.

- Denying listing on the PHA waiting list (process)
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

For more information on Informal Reviews, please refer to Chapter 14.

Chapter 4 – Definitions, Eligibility for Admission, and Denial of Assistance

Part I – Definitions of Family and Household Members

4.1 Definitions

The following definitions apply for purposes of eligibility and continued assistance under the Housing Choice Voucher (HCV) Program and align with 24 CFR § 5.403 and HUD Notice PIH 2023-27 (HOTMA guidance, effective July 1, 2025):

- **Family**
  [24 CFR 5.403, PIH Notice 2023-27]

  Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

  (1) A single person, who may be:

  i. An elderly person, displaced person, disabled person, near-elderly person, or any other Single person;
  ii. An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who:
     a. 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
     b. Is homeless or is at risk of becoming homeless at age 16 or older.

  (2) A group of persons residing together, and such group includes, but is not limited to:

  i. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  ii. An elderly family;
  iii. A near-elderly family;
  iv. A disabled family;
  v. A displaced family; and
  vi. The remaining member of a tenant family.

  One or more persons sharing residency, whose income(s) and resources are available <u>to meet the family's needs</u> who may not be related by blood, marriage or operation of law, <u>but who will give evidence of a stable relationship</u> which has existed a minimum of one year.

Evidence of a stable family relationship may include, but is not limited to, any of the following: birth certificates of the children, joint tax return, prior lease (held jointly or one adult listed as "head", but other adult was included on the lease), joint bank accounts, insurance policies, prior joint credit history, or similar documentation. Evidence used to verify stable relationships would be documented in the family file.

Families applying for assistance, who consist of two or more generations living together (such as a mother, and a daughter with her own children), will be treated as a single-family unit and will be entitled to only one housing voucher for assistance.

❖ Head of Household

[24 CFR 5.504(b)]

The head of household is the adult member of the household who has the legal capacity to enter into a lease under State/local law, will be issued the Housing Choice Voucher (if applicable), will sign the lease agreement, and is responsible for ensuring that the family fulfills all of its responsibilities under the lease and Housing Choice Voucher Agreement.

❖ Spouse, Co-Head and Other Adult

- **Spouse** means the partner of the head of household in a marriage or domestic partnership recognized within or outside of this jurisdiction. The term “spouse” does not apply to boyfriends, girlfriends, or significant others.
- **Co-head** of the household means: Any adult individual designated by the household, who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head cannot be a dependent.

❖ Child/Minor

[24 CFR 5.603]

A member of the family other than the family head or spouse who is under eighteen (18) years of age.

❖ Family Break-up

[24 CFR 982.315]

If an assisted family separates due to a divorce, separation, or by any other operation of law, the PHA will determine who continues to be assisted under the program. No additional housing voucher will be issued.

The PHA will take into consideration the following criteria in making its decision as to which family member continues to receive assistance in the program:

1. The desires of the family;
2. The interest of minor children, or of ill, disabled or elderly family members;
3. Whether any family members are going to remain in the assisted unit;
4. Whether there has been any instance(s) of actual or threatened physical violence against a family member by another member of the household;
5. Which family member(s) was part of the original application for assistance;

6. If a court determines property disposition between the family members, the PHA will adhere to the court's determination as to who shall hold the Housing Choice Voucher assistance; and
7. Whether there is drug-related or violent criminal activity. The PHA, in its sole discretion, may recommend terminating the entire family.

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the PHA will determine the family unit that retains the children as the applicant family. If there are no children, the PHA will require the applicants to jointly agree to the continued applicant or solicit a court decision.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide appropriate documentation, they will be denied continued placement on the waiting list for failure to supply information requested by the PHA.

❖ Remaining Family Member

[24 CFR 5.403]

A remaining household member who is a member of an assisted household whose original head/spouse is no longer residing in the rental unit as the result of death, institutionalization or incarceration (provided that the reason for incarceration is not a violation of family obligations under the program). Such remaining household members must have been listed on the most recent HUD 50058 and lease and must be able to carry out the terms of the lease and family obligations. (A household member for whom a subsidy was not paid because the household member did not have eligible citizenship status will not be considered a remaining household member.)

1. To be considered the remaining member of the family, the person(s) must meet all eligibility requirements:
   - Remaining family members age eighteen (18) years or older will be held responsible for arrearages incurred by the former head, co-head, or spouse. The PHA will not hold remaining family members (other than the head, co-head, or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age eighteen (18).
   - Remaining family members under age eighteen (18) shall not be held responsible for the rent arrearages incurred by the former head of household.
   - A live-in aide or foster child/adult, by definition, is not a member of the family and will not be qualified for continued occupancy as a remaining family member.

In order for a minor child(ren) to continue to receive assistance as a remaining member(s), one of the following must occur:

- The court has awarded emancipated minor status to the minor;
- The PHA has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child(ren); or
- The PHA may allow for another adult to be a temporary head of household until such time as legal guardianship is granted or a minor, at least 17 years of age, is emancipated or reaches age 18.

- A certification will be conducted and appropriate changes to the voucher size may be made at that time.

❖ **Dependent**

[24 CFR 5.603]

A member of the family (excluding foster children, foster adults or live-in aides) other than the family head or spouse, who is under eighteen (18) years of age, is a person with disabilities, or is a full-time student.

❖ **Joint Custody**

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

Families who claim primary custody in a joint custody or temporary guardianship arrangement will be required to certify, and provide supporting documentation to establish, that the child or children reside primarily with the applicant or resident. At a minimum, the child's school records must show the child's primary address to be the same as the applicant or resident.

When both parents are on the waiting list and both claim the child as a family member, the primary custodial parent whose address is listed in the school records as the primary address for the child will be allowed to claim the school-aged child as a dependent for the purposes of claiming the dependent deduction and determining subsidy.

❖ **Full-Time Student**

[24 CFR 5.603]

A person registered for and carrying a subject load that is considered full-time for day students under the Standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

❖ **Elderly Person**

[24 CFR 5.100]

A person sixty-two (62) years of age or older.

❖ **Elderly Family**

[24 CFR 5.100]

A family whose head, spouse, or sole member is a person who is at least sixty-two (62) years of age; or two or more persons who are at least sixty-two (62) years of age living together; or one or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.

❖ **Near-Elderly Family**

A family whose head of household, spouse or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

❖ Persons with Disabilities

[24 CFR 5.403]

Under federal discrimination law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. This definition does not include any individual who is a drug addict and is currently using illegal drugs, or an alcoholic, who poses a direct threat to the health, safety and right to peaceful enjoyment of the premises by other residents.

❖ Disabled Family

[24 CFR 5.403]

A family whose head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

❖ 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 express or implied authority to consent. A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

If a guest resides in the unit for more than a total of 30 cumulative calendar days in any 12 month period, the guest(s) will be considered unauthorized household member(s). Clients are responsible for advising PHA staff, in writing, of any guest(s) staying in the property. If the client fails to advise the City, the client will be subject to disciplinary action or program termination at the discretion of the City.

❖ Foster Children and Foster Adults

[24 CFR 5.603]

Foster Adult

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 judgement, decree or other order of any court of competent jurisdiction.

Foster Child

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 judgement, decree or other order of any court of competent jurisdiction.

A foster child or foster adult may be allowed to reside in the unit if his/her presence would not result in violation of the PHA's inspection protocol space standards. The family voucher size will be adjusted if foster children or foster adults remain in the household for a period of six months or more. Foster children and foster adults living with an applicant or assisted family are household members but are not family members. The income of foster children/adults is not counted as annual income.

If a child has been removed from the household and placed in alternate care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the household. Unless the agency confirms that the child has been permanently removed from the home and/or will not return to the home within the next twelve (12) months, the child will be counted as a family member.

❖ Absent Family Members

An individual who is, or is expected to be, absent from the assisted unit for less than 30 consecutive days is considered temporarily absent and continues to be considered a family member.

An individual who is, or is expected to be absent for 30 consecutive days or more is considered permanently absent and no longer a family member. Family members under the following circumstances may still be considered members of the household even if absent for more than 30 consecutive days if the family provides verification that the family member is likely to return within the next twelve (12) months.

- A family member who is away at school.
- A child placed in foster care.
- An employed head or co-head.
- Family members confined to a nursing home or other institution for medical reasons.

❖ Live-In Aide

[24 CFR 5.403]

A live-in aide is a person who resides with a disabled or elderly person who:

i. is determined to be essential to the care and well-being of the person(s);

ii. is not obligated to support the person(s); and

iii. would not be living in the unit except to provide necessary supportive services.

- The following distinct provisions apply to a live-in aide:
  - Income of the live-in aide will not be counted for purposes of determining eligibility or amount of housing assistance.
  - Live-in aides are not subject to Non-Citizen Rule requirements.
  - Live-in aides are not considered as a remaining member of the participant family and further are not entitled to any continued housing assistance if the household member they were aiding no longer participates in the program or resides in the assisted unit.
  - The live-in aide will be required to sign the Live-In Aide Agreement which shall become an addendum to the participant's lease, which sets forth the terms of the live-in aide's restricted occupancy.

- In accordance with 24 CFR 982.316 and PIH Notice 2010-51 (as extended), the PHA must review requests on a case-by-case basis and approve a Live-in Aide, if needed, as reasonable accommodation to make the program accessible to and usable by a family member with a disability. A family's request for a live-in aide must be made in writing.

Required documentation and written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provided must certify that a live-in aide is needed for the care of the family member as defined above. Within 15 days from receipt of all verification information, the PHA will notify the household of its decision to approve/disapprove the live-in aide.

Required documentation:

i. The live-in aide was not part of the household prior to the need for such care arising (documented by aide, e.g. recent utility bills, canceled rent checks);

ii. There is no other reason for the aide to reside in the unit than to provide such care (documented for example by a copy of the contract for live-in aide services through a third party or verification from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker); and

iii. The aide and the client maintain separate finances (documented by the aide and client through bank statements – bank account numbers may be partially redacted to protect parties' confidentiality).

- A relative may be considered as a live-in aide, but must meet all the above criteria by providing the required verification documentation listed above. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining family member of the participant family.
- The live-in aide may have PHA-approved family member(s) live with him/her in the unit, however, National Standards for the Physical Inspection of Real Estate (NSPIRE) and housing quality standards (HQS) may not be violated and no more than two people per bedroom or living/sleeping space may be permitted (PIH Notice 2010-51, as extended). If additional family members result in violation of NSPIRE/HQS, or do not meet the eligibility requirements set forth below, this specific live-in aide may not be approved. No additional bedrooms will be provided to accommodate the live-in aide's family members.

- At any time, the PHA will refuse to approve a particular person (including family member if any) as a live-in aide, or withdraw such approval, if:

  1. The person committed or commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
  2. The person committed drug-related criminal activity or violent criminal activity;
  3. The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
  4. The person is subject to a lifetime registration requirement under a state sex offender registration program. PHA will perform nationwide background checks. The nationwide background check will be conducted online using a database available at www.nsopw.gov (PIH Notice 2012- 28); or

5. A live-in aide (or family member) may be refused approval or their approval withdrawn for any of the reasons that an applicant or family member may be denied assistance or have assistance terminated.

- The live-in aide (and family member if any) must provide the following documents as part of the admission criteria described in this chapter:

  - ✓ Proof of identity
  - ✓ Verification of birth date
  - ✓ Social security number,
  - ✓ Other documents as may be required by USHUD

- The live-in aide (and family member, if any) will be asked to sign forms which include but is not limited to the following:

  - ✓ Live-in Aide Agreement
  - ✓ Authorization to Check Information
  - ✓ Authorization to Obtain Criminal Background
  - ✓ Authorization for the Release of Information/ Privacy Act Notice **(Form HUD-9886-A)**
  - ✓ Debts Owed to Public Housing Agencies and Terminations (Form HUD-5267)
  - ✓ What You Should Know About EIV (Form by HUD)

- PHA will verify information of the live-in aide (and family member if any) through EIV for debt owed to another housing authority or program, or whether a prior termination has been cleared.

Family Absences from Unit

Absence is defined as no family member residing in the unit. If the family will be absent from the unit for more than 30 days, the family shall promptly notify both the PHA and the owner in writing and obtain the PHA's approval. The PHA will require the family to document the reason for the extended absence. If the family is absent from the unit for more than 30 days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 13.II.E.

Absence from a unit may be verified by any of the following methods: National Standards for the Physical Inspection of Real Estate and Housing Quality Standards inspection, proof of utility payments, service verifications, through owner/management company verifications, through an investigation or other documentation or means.
To obtain the PHA's approval, the family must:

1. Comply with the notice requirements above;
2. Provide documentation acceptable to the PHA regarding the length of the absence and the reason for the absence;

3. Affirm their intent to return to the unit at the end of the leave period;
4. Agree to be responsible for receiving and responding to all notices sent by the PHA to the unit during the period of absence;
5. Pay rent to the owner and pay for utilities while the family is absent;
6. Make arrangements for PHA's inspection of the unit as necessary.

If the above procedure is not followed, the unit will be considered abandoned and termination of Housing Assistance Payments will commence. The term of the HAP Contract and the assisted lease also will terminate. The PHA reserves the right to consider special circumstances (such as absence due to hospitalization, medical emergency, etc.) as a basis to determine whether the PHA may want to allow a resumption of assistance to the family. The family must supply any information requested by the PHA to verify the special circumstances.

In no event shall absence be for a period greater than 90 days. Absences are permitted for:

1. Hospitalization;
2. Commitment to short-term drug or alcohol treatment;
3. Verifiable family illness or other family emergency;
4. Other reasons to be determined by the PHA.

Imprisonment is not a valid reason for an absence and if imprisonment resulted from drug related or criminal activity, the participant may be terminated under the termination policy. The PHA may conduct random mailings to program participants to verify continued occupancy.

Part II – Basic Eligibility Criteria

4.2 Qualifying for Admission

Placement on the waiting list does not indicate that the applicant is eligible for admission. A final determination of eligibility will be made when the applicant is selected for interview from the waiting list. It is the PHA's policy to admit into its housing programs only qualified applicants.

An applicant is qualified if he/she meets all of the following criteria:

1. Is a family, as defined in this Administrative Plan;
2. Meets HUD requirements on citizenship or immigration status;
3. Is within HUD's established income limits for new applicants or a "continually assisted" family at the time of admission;

4. Provides documentation of Social Security numbers for all family members, except for those individuals who do not contend that they have eligible immigration status. Provides documentation validating identity of each adult or emancipated minor; and
5. Is not otherwise disqualified under Chapter 13 ("Termination of Assistance").
6. Legal Capacity: The head of household of the family must be eighteen (18) years of age or older at the time of application, or have been emancipated by a court of competent jurisdiction; otherwise, the family will be removed from the waiting list. The head of household must have the capacity under state and local law to enter into a legally binding lease agreement, where the tenant is bound by the terms of the lease.

4.3 Forms Required At Time of Eligibility Determination

Applicants and all family members will be asked to sign forms which include but are not limited to the following:

- Authorization to Check Information;
- Authorization to Obtain Criminal Background;
- Authorization for the Release of Information/ Privacy Act Notice (Form HUD-9886-A);
- Debts Owed to Public Housing Agencies and Terminations (Form HUD-5267);
- What You Should Know About EIV (Form by HUD).

Failure to sign the consent forms will be grounds for disqualification from enrollment in the program.

4.4 Verification Requirements of Preferences Categories

In order to be eligible to apply and to qualify for the preference categories, sufficient documentation must be provided by the applicant prior to admission as required by the PHA under this Plan. Applicants may provide additional documentation while on the waiting list that may improve their ranking.

- *Elderly family member(s):* Documentation must be provided of birth date or senior citizen elderly status. A birth certificate, third-party verification or sworn affidavit will constitute sufficient documentation.
- *Disabled family member(s):* Documentation must be provided that an applicant family member(s) is disabled. A social security disability award letter or a medical letter that supports that the applicants meet the definition will constitute sufficient documentation.

4.5 Income Eligibility and Targeting

Income Limits and Types of Low-Income Families

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the HCV program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

- Extremely low-income family. A family whose annual income does not exceed 30 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.
- Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility

[24 CFR 982.201]
Income limits are used for eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- An extremely low-income family or a very low-income family (refer to Using Income Limits for Targeting);
- 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, including a break in assistance due to temporary residence in a domestic violence or homeless emergency shelter;
- 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

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 subject to the 75 percent restriction.

4.6 Disclosure Requirements & Mandatory Social Security Numbers

Effective January 31, 2010, all members of the household, except those that do not contend eligible immigration status, must provide appropriate documentation of his or her Social Security Number (SSN) before the household member is admitted into the program.

Disclosure Requirement for Applicants

At the time applicant's eligibility is determined, each applicant must submit: 1) the complete and accurate SSN assigned of the applicant and each member of the applicant's household, including the live-in aide and children under the age of six (6), unless the member of the household does not contend that they have eligible immigration status, and 2) required documentation to verify each SSN.

Initial Disclosure Requirement for Program Participants

Initial Disclosure: Participants whose initial determination of eligibility began before January 31, 2010, must submit a complete and accurate SSN and documentation to verify the SSN at the next interim or regularly scheduled recertification unless:

1. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
    a. A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is not eligible for housing assistance and cannot be housed.
    b. A family that consists of two or more household members and at least one household member that has eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR 5.520. The PHA may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
2. Existing program participants as of January 31, 2010 who have disclosed their SSN and HUD has determined the SSN to be valid. The PHA may confirm HUD's validation of the participant's SSN by viewing the household's Summary Report or the Identity Verification Report in the EIV system.
3. Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

Note: Once such documentation has been provided and verified pursuant to PIH Notice 2010-03, participants need not re-submit SSN documentation or be subject to SSN re-verification at the next interim or regularly scheduled recertification.

Required SSN Documentation

Applicants and participants must submit one of the following documents to confirm their SSN:

1. An original SSN card issued by SSA, or
2. An original SSA-issued document which contains the individual's name and SSN; or

   An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

Verification of SSNs and Identification Information

PIH Notice 2010-03 shall govern the process by which verification of SSNs and identification information is to be performed including the maintenance and destruction of applicant/participant-provided verification documentation.

Within 120 days of an applicant's eligibility determination and entry into the housing program, the PHA will use HUD's Enterprise Income Verification (EIV) system to verify the household's identification information (name, date of birth and SSA number) by comparing the documentation provided by the family member against the data contained in the EIV system.

Time Frames and Penalties to Submit Documents to Confirm the SSN

If at the time of eligibility, the documents to verify the SSN for each family member cannot be submitted and the applicant is otherwise eligible, the applicant may retain his or her place on the waiting list for the program, but cannot become a program participant until the required documents to confirm the SSN is provided. Applicants may be given up to 90 days, or 120 days for applicants 62 years or older, to submit documents confirming each household member's SSN.

Upon expiration of such period:

- If the applicant has been unable to produce the required documentation, the applicant will be removed from the waiting list.
- If a family member has not produced the required documentation, such family member may not be permitted to reside in the assisted unit.

The PHA must terminate the assistance of Section 8 program participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation. However, if the family is otherwise eligible for continued assistance in the program, the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period not to exceed 90 days from the

date the PHA determined the family noncompliant with the SSN disclosure and documentation requirement, if the PHA determines:

- The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
- There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline. If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the assistance, of the entire family.

Disclosure for Requests to Add New Household Member

Even if an additional household member may be added to the household when PHA approval is not required, a complete and accurate SSN and required documentation must be submitted to the PHA and the household member may not be added to the household until the family provides such documentation.

If the additional household member is under the age of six (6) and they have no SSN, a SSN must be applied for and original SSN card presented to PHA within 90 days of the child being added to the household. If the family is unable to disclose and provide evidence of the SSN within the 90 days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA must terminate the entire family's assistance.

When an applicant makes a request to add a new member to the household, a proposed new member must provide a SSN and required documentation at the time of the PHA's review of the request or at the time of processing the interim or annual recertification of family income and/or composition. The family must adhere, at all times, to the time frame for presenting a SSN card. If the family is unable to provide the required SSN documentation, the PHA cannot add the new household member until the family provides such documentation, unless the proposed member of the household does not contend that they have eligible immigration status.

4.7 Verification of Identity

Applicants who are Citizens or have Eligible Immigration Status

The applicant and each member of the household must provide documentation providing the identity of each adult or emancipated minor having citizenship or eligible immigration status. Such identity will be verified utilizing HUD's EIV system within 120 days of program admission.

- State issued driver's license (current and unexpired).
- State issued identification card (issued within the last ten years).
- U.S. passport (current and unexpired).
- US issued immigration verification documents that contain a picture of individual (issued within the last 10 years).
- Military identification card.
- Other documents as may be required by HUD

Household Members with Ineligible Immigration Status

An adult or emancipated minor applicants or household members who do not contend eligible immigration status will be required to confirm their identity providing any of the following documents:

- Foreign passport
- Foreign driver’s license
- Foreign birth Certificate
- Identification card issued in US
- Foreign military identification card
- Other documents as may be required by HUD

4.8 Citizenship or Eligible Immigration Status

Citizenship/Legal Alien Status Requirement for Assistance

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. A member may contend not to have eligible immigration status as described below. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD. The status of each member of the family is considered individually before the family's status.

- **Declaration of Ineligible Immigration Status** - An individual, other than the Program applicant, may contend not to have eligible immigration status. The family must identify in writing which family member does not contend to have eligible immigration status. The family member must execute a Declaration of Non-Eligible Immigration Status.
- **Mixed Families** - A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Assistance to such applicant families will be prorated and applicants will be notified accordingly. All family members’ income is counted for purposes of eligibility determination and calculating rent.

- **All Ineligible – Applicant and all family members lack immigration status –-** Applicant families that include no eligible members are not eligible for assistance. Such families will be denied admission.

Notification of Requirement at Time of Application

Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or to elect not to contend that one has eligible status, shall be given to each applicant at the time of application for assistance.

The notice shall:

a. State that financial assistance is contingent upon the submission and verification of evidence of citizenship or eligible immigration status;

b. Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted; and

c. State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements. Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of 24 CFR 5.516 and 5.518.

Required Documentation of Citizenship/Legal Alien Status

The PHA must secure documentation from the applicant that members of the applicant's household are either U.S. citizens or have legal alien status.

Declaration of Citizenship or Eligible Immigration Status

The Declaration of Citizenship or Eligible Immigration Status form must be signed by all family members (or by parent or guardian if family member is a minor) during eligibility determination.

In addition, the applicant and family members must consent to the sharing of information between the Housing Assistance Program and the Department of Homeland Security to verify status.

Documents to verify citizenship or immigration status will be required as indicated below.

Acceptable Documentation of Eligible Immigration Status

As a non-US citizen, an applicant for the federal housing assistance and all members of the household must provide one of the following documents listed below to demonstrate lawful legal status.

Documentation proving citizenship or eligible immigration status must be provided to PHA within 15 business days. Documents must be current and unexpired. The PHA must review original documents of eligible immigration status and will retain photocopies of the documents for its own records and return the original documents to the family.

- **Form I-551**, *Alien Registration Receipt Card* (for permanent resident aliens; also known as a "Green Card");

- **Form I-94**, *Arrival-Departure Record* that says one of following:
  - "Admitted as a Refugee Pursuant to Section 207;"
  - "Section 208" or "Asylum;"
  - "Section 243(h)" or "Deportation stayed by Attorney General;" or
  - "Paroled Pursuant to Section 212(d)(5) of the INA."

- **Form I-94**, *Arrival-Departure Record*, along with one of the following:
  - Final court decision granting asylum (only if no appeal);
  - Letter from U.S. Citizenship and Immigration Services (USCIS) asylum officer granting asylum (if application filed on or after October 1, 1990) or from the USCIS district director granting asylum (if application filed before October 1, 1990);
  - Court decision granting withholding of deportation; or
  - Letter from asylum officer granting withholding of deportation (if application filed on or after October 1, 1990).

- **Form I-688**, *Temporary Resident Card* marked "Section 245A" or "Section 210."

- **Form I-668B**, *Employment Authorization Card* ("EAD") marked "Provision of Law 274a.12(11)" or "Provision of Law 274a.12."

- **Receipt from the USCIS** stating application for replacement document (for one of the above) has been made and you are entitled to a replacement copy.

- **Form I-151**, Alien Registration Receipt Card.

- **Form I-914**, for *T-1 Nonimmigrant visa* followed by written confirmation that application is "bona fide."

Elderly Household Members:

For non-citizens sixty-two (62) years of age and older receiving assistance under a covered program on September 30, 1996 or applying for assistance after that date, only (a) a signed declaration of eligible immigration status and (b) proof of age is required.

Battered Immigrants – Violence Against Women Act, as Amended (VAWA)

Applicants and family members may be deemed qualified aliens eligible for assistance as "battered immigrants" under the VAWA. The PHA will follow the May 5, 2005 letter from the Department of Homeland Security to HUD informing HUD describing the process by which to conduct immigration status verification of battered immigrant-qualified aliens.

Request for Extension to Submit Documentation of Citizenship/ Legal Alien Status

A family member may request an extension of time to secure obtain and submit required documentation if such family member:

i. Submits the Legal Status Declaration Form certifying that such person is a noncitizen with eligible immigration status; and

ii. Certifies that (a) the evidence needed to support a claim of eligible immigration status is temporarily unavailable, (b) additional time is needed to obtain and submit the evidence, and (c) prompt and diligent efforts will be undertaken to obtain the evidence.

Approval or Denial and Extension Period

i. The PHA may make the determination to grant an extension of time. The determination whether to grant or deny the request shall be based on the circumstances of the individual case and, if granted, for a period of time sufficient to allow the family member to obtain the evidence needed. However, no extension period shall exceed 30 days.

ii. The PHA's decision to grant or deny an extension as provided above shall be issued to the applicant by written notice. If the extension is granted, the notice shall specify the extension period granted (which shall not exceed 30 days). If the extension is denied, the notice shall explain the reasons for denial of the extension.

Failure to Submit Evidence or to Establish Eligible Status

If the applicant fails to submit required evidence of eligible immigration status for the family member for which an extension is granted within the time period specified in the notice or if the evidence is timely submitted but fails to establish eligible immigration status, the PHA shall proceed to deny, prorate or terminate assistance as may be applicable in the case of re-certifications or interim re-certifications.

Verification of Eligible Immigration Status

No individual or family applying for assistance may receive such assistance prior to the verification of the eligibility of at least the individual or one family member. Verification of eligibility occurs when the individual or family members have submitted the required documentation as set forth above.

a. Primary verification

i. Automated verification system. Primary verification of the immigration status of the person is conducted by the PHA through the USCIS automated system (USCIS Systematic Alien Verification for Entitlements (SAVE)). The USCIS SAVE system provides access to names, file numbers and admission numbers of noncitizens.

ii. Failure of primary verification to confirm eligible immigration status. If the USCIS SAVE system does not verify eligible immigration status, secondary verification must be performed.

b. Secondary verification

i. Secondary verification is a manual search by the USCIS of its records to determine an individual's immigration status. The responsible entity must request secondary verification, within 10 days of receiving the results of the primary verification, if the primary verification system does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under the PHA's programs.

ii. The PHA will initiate the secondary verification by forwarding photocopies of the original USCIS documents required for the immigration status declared (front and back), attached to the USCIS document verification request form specified by the USCIS to a designated USCIS office for review.

iii. If the secondary verification does not confirm eligible immigration status, the PHA shall issue a notice described in 24 CFR 5.514(d), which includes notification of the right to appeal to the USCIS of the USCIS finding on immigration status (see § 5.514(d)(4)).

Restrictions on Delay, Denial, Reduction or Termination of assistance

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of a decision if the family has a pending appeal with USCIS or other basis set forth under 24 CFR 514(b).

Part III – Denial of Assistance

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

Notice of Standards to Applicants and Participants

The PHA shall give waiting list applicants and participants, at time of appointment, a written notice of:

1. Family obligations under the program;
2. The grounds on which the PHA may deny or terminate assistance because of family action or failure to act;
3. The PHA may, at its own discretion, perform criminal background checks on all applicants to the Housing Choice Voucher program; and
4. The PHA's informal review procedures for denial of admission to the program.

Denying Assistance

Denial of assistance for an applicant may include any or all of the following: Denying listing on the PHA's waiting list(s); denying or withdrawing a voucher, refusing to either into a HAP contract or approve a lease, and refusing to process or 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[2].
- 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
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance.

Mandatory Denial of Program Assistance

[24 CFR 982.553(a)]
HUD requires the PHA to deny assistance in the following situations:

- Any member of the household has been evicted from a federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exists (e.g., the person involved in the criminal activity no longer lives in the household). The PHA will follow such guidelines.
- The PHA determines that any household member is currently engaged in the use of illegal drugs. Currently engaged in is defined as any use of illegal drugs during the previous twelve (12) months.
- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- In determining reasonable cause, the PHA will consider all credible evidence, including, but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. PHA will also consider evidence from treatment providers or other credible sources.
- Any household member who has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

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[2] *Chapter 11A of the Miami-Dade County code identifies additional protected classes the City of Miami will also abide by. These additional classes include ancestry, pregnancy, marital status, or sexual orientation.*

- Any household member who is subject to a lifetime registration requirement under a state sex offender registration program.

Other Reasons for Denial of Program Assistance

HUD allows, but does not require, the PHA to deny assistance for the reasons discussed in this section. PHA will deny assistance to an applicant family if:

- The family does not provide information that PHA or HUD determines is necessary in the administration of the program
- The family does not provide complete and true information to PHA
- Any family member has been evicted from federally-assisted housing in the last 3 years
- Any PHA has ever terminated assistance under the program for any member of the household
- Any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- The family owns rent or other amounts to any PHA in connection with any federal, state, local funded housing program, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with PHA, unless the family repays the full amount of the debt 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 toward PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral or even actions that are 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

Criminal Activity

[24 CFR 982.553]
If any family member is currently engaged in, or has engaged in any of the following criminal activities, within the past twelve (12) months, 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].

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past twenty-four (24) months, the family will be denied assistance:

- *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 activity* that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of PHA (including a PHA employee or a PHA contracted agency)

Immediate vicinity means within a two-mile radius of the premises

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

- Any conviction for drug-related criminal activity within the past 12 months, or violent criminal activity within the past 24 months;
- Any arrest for drug-related criminal activity within the past 12 months, or violent criminal activity within the past 24 months;
- Any record of eviction from public or federally assisted privately-owned housing as a result of criminal activity within the past 3 years;
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

Previous Behavior in Assisted Housing

[24 CFR 982.552(c)]
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.

4.9 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].

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)].

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

If the PHA proposes to deny assistance based on 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 records 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

The PHA has no liability nor responsibility to the property owner for the family's behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant. However, this PHA will NOT conduct additional screening to determine an applicant or applicant's family suitability for tenancy.

The property 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 of 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, 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 to their essential conditions of tenancy.

If requested, the PHA will 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(s) at the family's current and prior addresses. PHA will not provide the property owner any additional information about the tenant such as criminal history, tenant history, etc.

4.10 Criteria for Deciding to Deny Assistance

Evidence

For criminal activity, HUD permits the PHA to deny assistance if a preponderance of the evidence indicates that a household member has engaged in the disqualifying activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

The PHA will use the concept of 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)]
The PHA is permitted, but not required, to consider all relevant circumstances when determining whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated.

The PHA will consider the following factors when making its decision to deny assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, 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 participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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 as a condition of receiving assistance. In such instance, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

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 member(s) as a condition of eligibility.

Reasonable Accommodation

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

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

If a family indicates that the behavior of a family member with a disability is the reason for a proposed denial 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 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.

4.11 Notice of Eligibility or Denial

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The PHA must give the family written notice that specifies:

- the reasons for which assistance has been denied;
- the family's right to an informal review; and
- the process for obtaining the informal review [24 CFR 982.554(a)]

If a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, is the basis of 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 family will be provided with 15 days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 15-day period, 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.

4.12 Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking

The Violence against Women Reauthorization Act of 2005 (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibits PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission".

Notification

PHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g. poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant the denial under PHA's policies. Therefore, if PHA makes a determination to deny assistance to an applicant family, the PHA will include in its notice the VAWA information and will request that an applicant wishing to claim protection under VAWA notify PHA within 15 days.

Victim Documentation

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

Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant's 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; OR
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed. The victim and perpetrator must also sign or attest to the documentation.

Exhibit 4-1

Disability Definitions

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 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 or 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:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. Is manifested before the individual attains age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in 3 or more of the following areas of major life activity: (a) Self-care, (b) Receptive and expressive language, (c) Learning, (d) Mobility, (e) Self-direction, (f) Capacity for independent living, (g) Economic self-sufficiency, and
5. 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 (a) through (g) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

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

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

As used in this definition, the phrase:

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

Chapter 5 – Briefing and Family Obligations

HUD regulations require PHAs to conduct mandatory briefings for applicant families and provide the family with a briefing packet containing written information about the HCV Program/ Mod-Rehab Program. The briefings provide 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 HCV Program.

5.1 Family Briefing

If a family is determined to be eligible by the PHA and is selected from the waiting list for participation, the family will be notified of an orientation briefing. Families may be briefed individually or in groups, at the discretion of the PHA. Families that attend group briefings and still need individual assistance will be referred to the appropriate PHA staff. Full opportunity shall be provided to the families to ask questions and receive answers.

At the briefing, the PHA must ensure effective communication in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973, and ensure that the briefing site is accessible to individuals with disabilities.

Notification and Attendance

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. Family requests to approve another adult attendee and the PHA's approval or denial must be made in writing.

Families will be notified of their eligibility for assistance at the time they are invited to attend the briefing. The notice will state the date and time of the scheduled briefing as well as the head of household attendance requirement. If the notice is returned by the post office with no forwarding address, a notice of denial will be sent to the family's address of record provided on the initial application.

Applicants who fail to attend a scheduled briefing will be automatically scheduled for another briefing. The PHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings without the PHA's approving such absences will be denied HCV or Mod-Rehab assistance.

Each briefing must provide the information on the following subjects:

- How the HCV or Mod-Rehab program work.
- Family and owner responsibilities.

- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantage of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Briefing Packet

The Housing Choice Voucher Holder's packet shall 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, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- 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.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.

- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.
- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

5.2 Family Obligations

Time Frames for Reporting Changes

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the PHA of a change, notifying the PHA of the request or change within fifteen (15) business days is considered prompt notice. When a family is required to provide notice to the PHA, the notice must be in writing.

Statement of Family Obligations

Clients have general responsibilities, which accrue from their right to fair treatment under federal assistance programs, and specific responsibilities associated with the HCV and Mod-Rehab Programs. A client's failure to comply, even one instance, with any of these program's responsibilities can lead to termination from the program. Clients receiving Section 8 assistance shall comply with all Program policies and procedures as set forth in this administrative manual, as well as any subsequent Program directives issued by the City.

The following are the participant family's obligations under the HCV/ Mod-Rehabilitation program. Violation of one or more of these obligations by the client or any member of the client's family (household) is grounds for denial or termination of assistance.

1. The family must supply any information that the PHA or HUD determines is necessary, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release or other documentation.
2. The family must supply any information requested by the PHA or HUD for use in a regularly scheduled recertification or interim recertification of family income and composition.
3. The family must notify the PHA of any changes in income or financial eligibility within fifteen (15) business days of the event and, if possible, in writing. Such changes are:
    a. Any member of the household who was reported as unemployed on the most recent certification or recertification obtains employment; or
    b. The family's income cumulatively increases by $200 or more per month.
4. The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information.

5. Any information supplied by the family must be true and complete.
6. The family is responsible for any National Standards for the Physical Inspection of Real Estate (NSPIRE) and Housing Quality Standard (HQS) breach by the family caused by failure to pay tenant-provided utilities, appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
7. The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice as described under Chapter 9 of this Plan.
8. The family may not commit any serious or repeated violation of the lease.
   - The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.
   - 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, criteria to be used is whether the reason for the eviction was through no fault of the tenant or his/her guests.
   - Under 24 CFR 5.2005(c)(1), an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.
9. The family must notify the PHA and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.
10. The family must promptly give the PHA a copy of any owner eviction notice.
11. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
12. The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person (i.e., nobody but members of the assisted family) may reside in the unit (except for a foster child or live-in aide as provided below.)

    Any request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the requirements of this Plan.
13. The family must promptly notify the PHA if any family member no longer resides in the unit.
14. If the PHA has given prior written approval, a foster child or a live-in-aide may reside in the unit.
15. The family must not sublease or let the unit, assign the lease or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
16. The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested

information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose.

17. The family must promptly notify the PHA of absence from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period of time. An extended period of time is any period greater than 30 days. Written notice must be provided to the PHA at the start of the extended absence.
18. The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
19. The family must not own or have any interest in the unit.
20. Family members must not commit fraud, bribery or any other corrupt or criminal act in connection with the program.
21. The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
22. Members of the household must not engage in abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
23. An assisted family or members of the family may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any other federal, state or local housing assistance program.
24. A family must not receive HCV Program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

5.3 Expanding Housing Opportunities

Housing Opportunities outside Areas of Poverty or Minority Concentration

The PHA will encourage participation by owners of units outside areas of poverty or minority concentration. Outreach will be conducted on an ongoing basis by the PHA as follows:

- The booklet called "City of Miami, Section 8 Landlord Outreach Guide", providing an owners' guide to the Housing Choice Voucher Program is available at the PHA's website and distributed to all interested parties to answer questions and encourage owner participation in the program.
- Developing working relationships with owners and real estate brokers associations.

Voucher holders will be advised of the benefits of choosing housing opportunities outside areas of poverty and minority concentration. The PHA will make available information about job opportunities, schools, services and maps and related information when briefing voucher holders.

The PHA briefing packet includes an explanation of how mobility and portability work and explains how the PHA will assist in identifying a portability contact person in other jurisdictions.
The PHA may collect known available housing units offered by different landlords and will make this information available for the Voucher-holders. When available, the PHA will refer clients to agencies that will help support finding units outside areas of poverty or minority concentration.

Assistance Provided to Families that Include a Person with Disabilities

The PHA will provide additional assistance on behalf of families that include persons with disabilities by attempting to collect a listing of available housing units that are handicap accessible units and providing this information to the family. Additional time may be granted as outlined in the "term of the voucher" section and a higher payment standard may be granted (if possible) as a reasonable accommodation due to a disability.

5.4 Assistance to Applicants and Participants Claiming Illegal Discrimination

If families believe that they have been discriminated against on the basis of age, race, color, national origin, sex, disability, familial status, or any other protected class under the Miami-Dade County code, the PHA will offer to assist them in filling out HUD form 903 (The Housing Discrimination Complaint form). This form is included in the briefing packet or available upon request. If the family requests, the PHA will also forward the completed Housing Discrimination Complaint form to the Department of Housing and Urban Development's Field Office in Miami. The family will be informed of other available options to pursue a discrimination complaint including an appropriate referral to the Miami-Dade Equal Opportunity Board, the Florida Commission on Human Relations, Housing Opportunities Project for Excellence, Inc. (H.O.P.E.) and Legal Services of Greater Miami.

The PHA may approve a request for extension or suspension of the term of the family's Housing Voucher if deemed necessary due to the complaint.

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Chapter 6 – Voucher Issuance and Subsidy Standards

6.1 Voucher Issuance

When a family is selected from the waiting list or when a participant wants to move to another jurisdiction to another unit, the PHA issues a Housing Choice Voucher (Form HUD-52646).

The voucher is the applicant 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.

A voucher can be issued to an applicant family only after PHA has determined that the family is eligible for the program based on information received within 60 days prior to issuance and after the family has attended a program briefing.

Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding in accordance with the policies under this Plan. 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.

6.2 Voucher Term, Extensions, Suspensions and Expiration

Voucher Term

The initial voucher term will be 60 days. The initial term must be stated on the voucher.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.

Extension of Voucher Term

If the Housing Voucher is about to expire, a family may submit a written request for an extension. The PHA may grant one or more extensions, provided the PHA determines that the family's failure to find a suitable unit is not due to the fault or lack of diligence of the family, based on the following grounds:

1. As a reasonable accommodation on the basis of disability;
2. As a reasonable accommodation due to hospitalization of a family member or a family member's illness over an extended period of time that has affected the family's ability to find a unit within the initial 60-day term;
3. If the family has made consistent efforts to locate a unit, but has faced rental market difficulties;

4. If the family requires a unit larger than 3 bedrooms;
5. If the family has turned in a Request for Tenancy Approval prior to the expiration of the 60-day term but the unit has not passed National Standards for the Physical Inspection of Real Estate (NSPIRE) and Housing Quality Standard (HQS) inspection.

The cumulative term of the voucher, however, may not be more than 120 days.
All requests for extensions to the voucher term must be made in writing and submitted to the PHA prior to expiration date of the voucher (or extended term of the voucher). Any request for an extension must include the reason(s) an extension is required. The PHA may require the family to provide documentation to support the request.

The PHA will decide whether to approve or deny the extension within 15 days of the date the request is received, and will immediately provide the family written notice of its decision. The PHA's decision to deny a request for an extension of the voucher term is NOT subject to informal review.

Suspension of Voucher Term

Upon submittal of a completed Request for Tenancy Approval (RTA) form, the PHA will suspend the term of the voucher. "Suspension" means stopping the clock on a family's voucher term from the time that the family submits the RTA until the time the PHA approves or denies the request. A family may not submit a second RTA before the PHA finalizes action on the first RTA.

A family may make a written request that the expiration period of their Housing Voucher be suspended for other reasons (suspension requests cannot exceed 120 days), provided that the family can submit documentation, acceptable to the PHA that after the voucher was issued circumstances occurred that halted its housing search as follows:

1. A family member became temporarily confined to a hospital, nursing home, etc.;
2. A documented medical reason that justifies the inability of the applicant to make use of the Housing Voucher during that time period;
3. The applicant is admitted to a drug rehab or other rehab program;
4. Circumstances beyond the control of the family that are inhibiting the family's search.

Expiration of Voucher Term

In the event that the voucher expires with or without an extension, the family must reapply when the PHA re-opens the waiting list application period. Families unable to lease up during the term of the voucher shall not be deemed ineligible for program assistance solely on the basis of their inability to lease up during the period of time provided.

Within 15 days after expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family must re-apply in order to be placed on the waiting list.

Initial Term – Incoming Portables

The PHA will issue all incoming portables a voucher with an expiration date that matches that given by the initial PHA. The PHA will not grant any extensions to this term. The incoming voucher-holder will have to seek an extension from the initial PHA. However, as a reasonable accommodation for a family member with disabilities, the PHA will coordinate with the initial PHA if the family so requests.

6.3 Subsidy Standards Criteria

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards (family unit size). The family unit size number is entered on the voucher issued to the family. The PHA issues the family a voucher for the family unit size when a family is selected for participation in the program.

The following guidelines will determine each family's level of assistance. To avoid overcrowding and prevent waste of space and program funds, units shall be leased in accordance with the subsidy standards set below:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	5	8
5	8	10

The family's unit size shall be determined using the following criteria:

1. The bedroom size assigned shall provide for the smallest number of bedrooms needed to house a family without overcrowding.
2. The bedroom size assigned shall not require more than two persons to occupy the same bedroom.
3. The bedroom size assigned shall not require persons of the opposite sex other than an adult couple to occupy the same bedroom with the exception of infants and very young children under the age of six. Children of the same sex regardless of age must share a bedroom. Children of opposite sex under the age of six must also share a bedroom.
4. A family that consists of a pregnant woman only, and (no other persons), will be treated as a two-person family.
5. Foster adults and children will not be required to share a bedroom with family members unless otherwise explained under #3 above.
6. The family has the option to select a smaller-sized unit provided there is at least one bedroom of appropriate size for each two persons in the household. (For example, a two-bedroom voucher holder with a mother with an infant may select a one-bedroom unit.) For the Voucher Program, the payment standard that is used for the family will be the lower of the subsidy standard that the family qualifies for or the payment standard for the unit rented by the family.

7. Live-in aides will get a separate bedroom; however, the PHA must certify the live-in aide. A live-in-aide is defined by 24 CFR 813.102 as a person who resides with an elderly, disabled, or handicapped person who:
   a. is determined to be essential to the care and well-being of the person(s);
   b. is not obligated to support the person(s); and
   c. would not be living in the unit except to provide necessary supportive services, which are being provided through an "arm's length transaction" (i.e. under a service contract), supported with documentation.
8. Provided there is adequate documentation, a child who is temporarily away from the house because of placement in foster care will be considered a member of the family for purposes of determining the family unit size.
9. Regardless of the number of bedrooms stated on the voucher issued to the family, the PHA will allow the family to rent an otherwise acceptable unit even if it is larger than the family needs. The payment standard, however, is always the lower of the payment for the unit size listed on the voucher or the payment standard for the size of the unit rented by the family. Likewise, a family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable NSPIRE/HQS space requirements (e.g. space requirements).

6.4 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. 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 unrelated to a family member's disability, medical or health condition.

For a single person other than a disabled or elderly person or remaining family member, such PHA exception may not override the regulatory limit of a zero or one bedroom.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The PHA will notify the family of its determination within 15 days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

Under the Mod-Rehab Program, such exceptions are only applicable based on the availability of a suitable unit. If an exception to the established subsidy standard is justified and approved by the PHA, but the

requested family unit size is not available, the program participant will be placed on a waiting list for special accommodations based on the date the PHA granted the exception.

Chapter 7 – Determination and Verification of Annual Income

The HCV and Mod-Rehab programs require the PHA to verify household income to determine eligibility for assistance. Household income is also utilized to calculate the family's portion of the rent and the PHA's subsidy.

The PHA will utilize HUD regulations as the base to include and exclude certain sources of income in order to properly determine the household's annual income. In addition, once annual income is established, HUD regulations require the PHA to provide qualifying families with deductions in five different categories which will be explained later in this chapter.

Housing Opportunity Through Modernization Act (HOTMA) of 2016

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.

Sections 102 & 104: The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule; this was reissued on February 2, 2024, to provide revisions and further guidance. As of the date of this Plan, PHA is awaiting further guidance from HUD regarding the implementation and compliance date for various provisions of HOTMA pertaining to Sections 102 and 104.

Section 103: The provisions under Section 103 are not discussed in PHA's Administrative Plan, as they relate to public housing residents.

Sections 101, 105, 106, and 112: On May 7, 2024, HUD published a Final Rule in the *Federal Register* implementing further changes under HOTMA, specific to Sections 101, 105, 106, and 112 of HOTMA and in reference to the October 8, 2020, proposed rule.

On February 14, 2023, the Department of Housing and Urban Development (HUD) published a Final Rule in the Federal Register implementing Sections 102, 103, and 104 of the Housing Opportunity through Modernization Act of 2016 (HOTMA). The provisions under Sections 102 and 104 are to be effective July 1, 2025, unless otherwise modified by HUD. As of the date of this Administrative Plan, PHA is awaiting further guidance from HUD regarding the implementation of these provisions and related requirements. PHA has updated its policies throughout this Plan to incorporate HOTMA requirements according to applicable guidance that is available as of the date of this Plan. PHA will update this Plan, and its policies as needed to reflect any subsequent guidance released by HUD pertaining to HOTMA, the Final Rule, and other related regulatory requirements. PHA will comply with the HOTMA Final Rule and all requirements, with the exception of policies that have been waived by PHA.

7.1 Calculating Annual Income

(This section shall become effective July 1 2025, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

The general regulatory definition of annual income under 24 CFR 5.609 is as follows:

Annual income includes, with respect to the family (24 CFR 5.609 (a)):

(1) All amounts, not specifically excluded in Annual Income Exclusions section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds $50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets as indicated below under annual income inclusions and exclusions.

Calculating Annual Income (24 CFR 5.609(c))

(This section shall become effective, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD).

PHA may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period from Low-Income Housing Tax Credit (LIHTC), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other means-tested forms of public assistance.

For new admissions and interim reexaminations, PHA must estimate the family income for the upcoming 12-month period**,** subtract the allowable deductions, from the gross annual income to determine the adjusted income.

For annual reexaminations, PHA must:

- Determine the family income for the previous 12-months and any interim processed (24 CFR §5.609 (c)(2)) except when using a streamlined income determination.
- Consider any redetermination from an interim reexamination during that period.
- Adjust reflects current income if there was a change during that period.
- Subtract the allowable deductions from the gross annual income to determine the adjusted.

Annual Income Inclusions

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 recertification effective date; and
3. Are not specifically excluded in the Annual Income Exclusions section.
4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

b) *Annual income includes, but is not limited to:*

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees tips and bonuses, and other compensation for personal services;
2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
6. Welfare assistance payments.
    i. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
        a. Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
        b. Are not otherwise excluded under paragraph (c) of this section

ii. If the welfare assistance payments includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

a. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

b. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions of gift received from organizations or from persons not residing in the dwelling;

8. All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

9. For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002 et seq.), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

Annual Income Exclusions

(This section shall become effective July 1, 2025, upon the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD)

Annual income does not include the following (24 CFR 5.609(b)):

(1) Any imputed return on an asset when net family assets total $50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9) (i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

(*1*) The Federal government;
(*2*) A State, Tribe, or local government;
(*3*) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
(*4*) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
(*5*) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(*1*) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
(*2*) Financial support provided to the student in the form of a fee for services performed (*e.g.,* a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
(*3*) Gifts, including gifts from family or friends; or
(*4*) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the

student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(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 that is considered student financial assistance excluded under this paragraph is the lower of:

(*i*) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(*ii*) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (*e.g.,* special equipment, clothing, transportation, 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 quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (*e.g.,* proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

> (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
>
> (ii) Direct Federal or State payments intended for economic stimulus or recovery.
>
> (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
>
> (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
>
> (v) Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.,* wedding gifts, baby showers, anniversaries).
>
> (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
>
> (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

Some Sources of Income Excluded by Federal Statue from Consideration as Income for Purposes of Determining Eligibility or Benefits

- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
- Payments to Volunteers under the Domestic Volunteer Services Act of 1973;
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- Payments received under programs funded in whole or in part under the Job Training Partnership Act;
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs;
- Payments received from programs funded under Title V of the Older Americans Act of 1985;
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for cost incurred for such care) under the Child Care and Development Block Grant of 1990;
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991;
- Any allowances paid under provision of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- Any amount of crime victim compensation received through crime victim assistance as determined under the Victims of Crime Act because of the commission of a crime against the applicant;
- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.

Household Composition and Income from Household Members

Household income is composed of all income received by all family members unless specifically excluded by the regulations. The head of the household must report all sources of income at time of application and/or recertification as well as any changes in family composition. The rules on which sources of income are counted vary somewhat by family member.

Temporarily Absent Family Members

All income of people authorized to live in the unit as part of the household will be counted toward the annual income calculation.

Any household member who is or is expected to be absent from the assisted unit for less than 30 days is considered temporarily absent and continues to be considered a family member.

Any household member who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered *permanently absent and no longer a household member*. Exceptions to this general policy are discussed below.

Absent Head of Household, Spouse or Co-Head

A head of household, spouse, or co-head absent from the unit more than 30 days due to employment will continue to be considered a family member.

Absences Due to Military Duty

A family member that can return to the unit within 30 days of the conclusion of active duty services and not absent from the unit for more than 180 days is considered to be temporarily absent. If the length of service extends beyond 180 days, the PHA may waive the 30-day limit subject to verification of the absence due to active duty service.

Absent Students (Away from Home Schooling)

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403] unless there is a confirmation from an appropriate agency whereby it is indicated that the child has been permanently removed from the home.

Permanently Absent

If a household member is placed in a nursing home, hospital on a permanent basis, or does not reside in the property for 30 days, such household member will no longer be considered part of the household and as such the person's income will not be counted.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered members of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) claims the same dependents as family members, the family with primary custody at the time of the initial examination or recertification 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 court orders or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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 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, formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days have 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 visitor.
3. At any time that custody or guardianship legally has been awarded to a caretaker, the lease must be transferred to the caretaker, as head of household (subject to the caretaker meeting all the PHA eligibility admissions criteria for HCV program participation). In addition the housing choice voucher will be transferred to the caretaker.
4. During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in the family's annual income and the caretaker does not qualify the family for any deductions from income.
5. If a caretaker removes the remaining minors from the subsidized unit, the HAP contract will be cancelled and the family will be terminated.
6. Only a Head of Household (HOH) will be added to the voucher and subsidy size cannot be increased. If the new HOH has additional family members, the mixed family proration will be used to calculate the subsidy.

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 recertification effective date" [24 CFR 5.609(a)(2)].

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;
- 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)].

HUD requires the use of the Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and allows PHAs to use pay-stubs to project income once EIV data has been received.

When EIV is obtained and the family does not dispute the EIV employer data, PHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, PHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The PHA will obtain written and/or oral third-party verification in the following cases:

- If EIV data is not available;
- If the family disputes the accuracy of the EIV employer data, and/or
- If PHA determines that additional information is needed.

In such cases, 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.

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), 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 rational for the decision will be documented in the client file. In all such cases, the family may present information and documentation to PHA to show why the historic pattern does not represent the family's anticipated income. The PHA at its own discretion will determine if such information is enough to demonstrate the family's claim.

When Change of Income is Anticipated During the Year

If PHA verifies that the family annual income will be increasing or decreasing during the certification/recertification period, the annual income shall be calculated by calculating and applying each income amount to the appropriate part of the 12-month period.

For example, if an employer reports that a full-time employee who has been receiving $10/hour is to receive $11.25/hour in the tenth week after the effective date of the recertification, the annual income shall be calculated as follows: $10/hour x 40 hours x 9 weeks) + ($11.25/hour x 40 hours x 43 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 PHA will calculate annual income using current circumstances and then require an interim examination when the change actually occurs.

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

Can EIV be used to Project Income?

No. In HUD's EIV webcast of January 2008, HUD made it clear that PHAs are not to use EIV quarterly wages to project annual income.

Earned Income

Types of Earned Income Included in Annual Income

Family Income
Family Income means the annual earned and unearned income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based.

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

Unearned income
Any annual income, as calculated under § 5.609, that is not earned income.

Note that HUD determined that Family Self- Sufficiency (FSS) escrow deposits are not considered as either earned or unearned income.

Wages and Other Compensation
[24 CFR 5.609(b)(1)]
The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or recertification. If only a one-year history is available,

the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, PHA will count only the amount estimated by the employer.

Some Types of Military Pay

[24 CFR 5.609(b)(8)]
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.

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

[Notice PIH 2009-19]
This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days.

Sporadic income is income that is received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings (Under 18 Years of Age)

[24 CFR 5.609(c)(1)]
Employment income earned by children (including foster children) under the age of 18 years is not included in annual income.

Certain Earned Income of Full-Time Students 18 Years or Older (Not Head, Spouse, or Co-Head)

[24 CFR 5.609(c)(11)]
Earnings in excess of $480 for each full-time student 18 years or older (except for the head, spouse, or co-head) are not counted. To be considered "full-time." a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of a Live-In Aide

[24 CFR 5.403 and 24 CFR 5.609(c)(5)]
Income earned by a live-in aide is not included in annual income.

Income of a Foster Child or Foster Adult

[24 CFR 5.609(c)(2)]
Income earned by a foster child or foster adult is not included in annual income.

Income Earned under Certain Federal Programs

[24 CFR 5.609(c)(17)]
Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from program funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

[24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the PHA or an owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

[24 CFR 5.609(c)(8)(v)]

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) are excluded from annual income. This includes programs that have the goal of assisting participants in obtaining employment skills, and are authorized or funded by federal, state or local law, or operated by a public agency.

The compensation to be excluded must be related to the training and only during the period in which the family member participates in the employment training period.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements.

HUD-Funded Training Programs

[24 CFR 5.609(c)(8)(i)]

Amounts received under training programs funded in whole or in part by HUD are excluded from annual income. Eligible sources for the training include operating subsidy, Section 8 administrative fees, and other grant funds received from HUD.

Earned Income Tax Credit

[24 CFR 5.609(c)(17)]

Earned Income Tax Credit (EITC) refund payments received on or after January 2, 1991 (26 U.S.C. 32(i)), are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance as described below.

Earned Income Disallowance (EID) for Persons with Disabilities

Earned Income Disallowance (EID) section was eliminated as of January 1, 2024, with the implementation of HOTMA and applicable regulations and guidelines promulgated by HUD.

1. Effective January 1, 2024, HUD will be discontinuing the Earned Income Disallowance (EID). As a result, no new individuals may qualify for the EID after December 31, 2023. Any individual who has an EID as of December 31, 2023, may continue to receive the EID—as described in this section—until it expires.
2. Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID until the maximum 2-year disallowance time frame expires. No new families may be added. Further, within two years from the effective date of the final rule implementation (January 1, 2026), no family will receive the EID benefit.
3. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.
4. Under the HCV program, the EID exclusion is limited to only persons with disabilities (24 CFR 5.617(e)).

The earned income disallowance (EID) encourages people with disabilities to enter the workforce by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowances are summarized below.

Eligibility

[24 CFR 5.617(d)]

These disallowances apply only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-

sufficiency program includes a program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance to Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The PHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying income remains constant throughout the period that he or she is receiving the EID.

Initial 12-month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12-month is cumulative and need not be consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12-month is cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or there are breaks in assistance.

During the 48-month eligibility period, the PHA will conduct an interim recertification each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Periodic and Lump Sum Payments

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income.

Periodic & Lump Sum Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family.
- Disability or death benefits and lottery receipts paid periodically, rather than a single lump sum.

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, see exceptions related to Social Security, Supplemental Security Income or Veterans disability benefits below. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

When a delayed-start payment is received and reported during the period in which the PHA is processing an annual recertification, PHA will adjust the participant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.

See the chapter on recertifications for information about family's obligation to report lump-sum receipts between annual recertifications.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the participant family, who are unable to live alone). [24 CFR 5.609(c)(2)].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program.
- Amounts received under the Child Care and Development Block Grant Act of 1990.
- Earned Income Tax Credit (EITC) refund payments.
- *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sum receipts for delays in processing/delayed start of periodic Social Security or Supplemental Security Income (SSI) payments.
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA).

Payments in Lieu of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump-sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)].

Welfare Assistance

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

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 9-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

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."

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. PHA must request that the welfare agency inform the PHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

The 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.

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to *zero* [24 CFR 5.615(c)(4)].

Periodic and Determinable Allowances

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The PHA must consent as income regular monetary and nonmonetary contributions or gifts from persons not residing with a participant family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

Examples of regular contributions include (1) regular payment of family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the PHA. For contributions that may vary from month to month (e.g., utility payments), the PHA will include an average amount based upon past history.

Student Financial Assistance

In 2005 Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance INCLUDED in Annual Income [F.R. 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own---that is, apart from their parents---through the HCV program, the project-based certificate program, the project-based voucher program, or the Mod-Rehab program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child, institution of higher education* and *parents* set forth under this Plan along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Education Opportunity Grants, Academic Achievement Incentive Scholarships, and State Assistance under the Leveraging Educational Assistance Partnership Programs, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

Student Financial Assistance EXCLUDED from Annual Income

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E.

- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

Business Income

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Determining Net Income

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

Business Expansion

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

Capital Indebtedness

HUD regulations do not permit PHA to deduct from gross income the amortization of capital indebtedness.
Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

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.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a participant family provided an up-front loan of $2,000 to help a business get started, PHA will not count as income any withdrawals from the business up to the amount of the loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

De Minimis Errors in Income Determinations

(This section shall become effective July 1, 2025, upon the implementation HOTMA and applicable regulations and guidelines promulgated by HUD).

PHA or owner will not be considered out of compliance with the requirements in this paragraph solely due to de minimis errors in calculating family income. A de minimis error is an error where PHA or owner determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

PHA or owner will take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share because of the de minimis error in the income determination retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. However, families will not be required to repay the PHA or owner in instances where PHA or owner has miscalculated income resulting in a family being undercharged for rent or family share.

7.2 Assets

Overview

A. Verification of Assets

Effective July 1, 2025, upon implementation of HOTMA, and subject to applicable HUD regulations and guidance, the following asset policies will apply:

1. For net family assets under $50,000:
   PHA may accept self-certification from the family that the assets are under that amount, and no further documentation is required to be collected.
   The certification must include any expected income from the assets (actual returns only).
   PHA must obtain third-party verification of assets every 3 years.

2. For net family assets totaling $50,000 or greater:
   PHA will verify the value and income from assets using the applicable verification hierarchy.

See the section on **Limitations on Assets** under which a household may be disqualified from admission or continued occupancy.

B. Limitation on Assets (24 CFR 5.618)

Upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, assistance under the HCV program may not be provided either initially or upon reexamination of family income if:

1. The family's net assets (as defined in 24 CFR 5.603) exceed $100,000, or as determined by HUD and adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers; and/or

2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.

3. A property will be considered "suitable for occupancy" unless the family demonstrates that the property:

a) 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);
b) Is not sufficient for the size of the family;
c) 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);
d) 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
e) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

4. This real property restriction does not apply to:

a) Any property for which the family is receiving assistance under 24 CFR § 982.620 or under the Homeownership Option in 24 CFR Part 982;
b) Any property that is jointly owned by a member of the family and at least one nonhousehold member who does not live with the family, if the non-household member resides at the jointly owned property;
c) Any person who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR part 5, Subpart L; or
d) Any family that is offering such property for sale.

5. PHA may establish exceptions to this policy according to family type and/or circumstance and in accordance with the Final Rule and any related guidance. These exceptions may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

Further, PHA may delay the initiation of termination proceedings of a family based on noncompliance under this provision, unless it conflicts with other provisions of law, for a period not to exceed six (6) months. After the conclusion of six (6) months, the PHA or owner may begin eviction or termination of assistance.

Compliance at Admission

At admission, ownership of net family assets that exceed $100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. (PIH Notice 2023-27).

Annual and Interim Reexamination

The City will implement "Enforcement Policy":

PHA will enforce the asset limitation at reexamination. Based on the Enforcement Policy, PHA must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. PHA may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months. (PIH Notice 2023-27).

Documents

In support of the applicant/tenant's declaration of income, PHA may review original documents, authenticated copies, and/or electronic documents (unaltered) provided by the applicant or resident. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will have to provide new documents. A photocopy will be placed in the file.

Acceptable applicant or resident provided documents include:

- Consecutive and unaltered pay stubs;
- Social Security Administration award letter;
- Assets and Asset Income;
- Pension benefit statements;
- TANF award letter;
- other official and authentic documents from a Federal, State or local agency.

Federal Income Tax Return
If third-party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempted have failed.

Landlord Verification
PHA may obtain verifications from previous landlords to verify the applicant's ability to pay rent and to comply with the lease terms, and will perform criminal background (not including juvenile records) and sex offender registration checks on applicants and family members 18 years of age and over. PHA will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. If PHA discovers the family has a history of failure to comply with lease terms under previous landlords or fails the background check, such shall result in removal from the waiting list, withdrawal of an offer, or termination of assistance.

Misrepresentation of Information
A family's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, income or rent would result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

Child Support
Uncollected child support will not be counted as income so long as the family provides documents proving the debt uncollectible for at least three (3) months. However, effective July 1, 2025, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, PHA will only process a full interim reexamination if the family's adjusted income is estimated to have decreased by ten (10) percent or more, the standard threshold set by HUD.

Self-Employment Income
Effective July 1, 2025, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, an independent contractor is 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.

Gross income received through self-employment or operation of a business; with the exception of the following which shall be considered income:

- 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 IRS regulations; and

- 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.

Seasonal Employment

Effective July 1, 2024, upon implementation of the HOTMA Final Rule and subject to applicable HUD guidance, a seasonal worker is an individual who is hired into a short-term position 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 a specific employer or industry.

Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:

1. Annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases by ten percent (10) or more.

2. Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re-examination at the time income decreases by ten percent (10) or more since such decreases would already be averaged into the anticipated annual amount.

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 authorized 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, PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires PHAs to make distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset in cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income.

Determining Value of Income from Assets

[24 CFR 5.609(b)(3)]

When the total value of assets is $5,000 or less, the PHA will use the actual amount of income anticipated to be derived from the assets. If the only asset is an interest bearing bank account, the actual income from the asset is the amount of interest earned shown in the last bank statement.

When the total value of assets is over $5,000, use the greater of:

1. The actual amount of income derived from assets, or
2. The imputed income from assets based on the Savings National Rate in effect at the time, (PIH Notice 2012-29). The USHUD form 50058 automatically calculates the passincrease tenbook rate percentage value of the assets, compares it to the actual income, and picks the greater amount.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly-Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

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 he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the 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/recertification, except as noted below.

Minimum Threshold

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 $5,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or participant receives important consideration not measurable in dollar terms.

If there is a formal separation or divorce settlement agreement established through arbitration, mediation or court order that results in disposal of assets, the distribution will not be considered less than the fair market value.

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

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. PHA may verify the value of the assets disposed of if other information available to 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.

- In determining the value of a checking account, PHA will use the current balance.
- In determining the value of a savings account, 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.

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.

In determining the market value of an investment account, PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the 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 reasonable costs (such as broker fees) that would be incurred in selling the asset.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity account in HUD homeownership programs [24 CFR 5.603(b)].
- The value of a home currently being purchased with assistance under the HCV Program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)].
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives.
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to the asset will be calculated as described above in imputing income from assets.
- Interests in Indian Trust lands [24 CFR 5.603(b)].
- Real property and capital assets that are part of an active business or farming operation.

A family may have real property as an asset in two ways (1) owning the property itself and (2) building 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.

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

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts
If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is also to be counted as actual asset income whether the income is paid out to the family or deposited back into the trust.

Non-revocable Trusts
In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is in the form of a periodic payment will be treated as income. If paid in lump sum, it will be deemed a lump-sum receipt and therefore, an asset.

Retirement Accounts

Company Retirement/Pension Accounts
In order to correctly include or exclude as an asset any amount held to a company retirement or pension account by an employed person, PHA must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt (if a settlement opposed to settlement or for a delay in periodic payments), as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement saving accounts are counted as assets even though early withdrawal would result in a penalty.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, PHA will use the family's estimate of the value. However, PHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets.

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets. 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.

Additional Exclusions from Annual Income

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following.

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [24 CFR 5.609(c)(8) (ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)).
    b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058).
    c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
    d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e).
    e. Payments or allowances made under the Department of Health and Human Services Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)).

f. Payments received under programs funded in whole or in part under the Job Training Partnership Act [29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931)).

g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indian (Pub. 1. 94-540, 90 Stat. 2503-04).

h. The first $2,000 of the capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of Individual Indians. in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408).

i. Payments received from programs funded under Title V of the Older Americans Act of 1985 U.S.C. 3056(f)).

j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.I. No. 381 (E.D.N.Y.).

k. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C.1721)

l. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9585q).

m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)).

n. Payments by the Indian Claims Commission to the Confederated Tribe and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433).

o. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).

p. Any allowances paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805).

q. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602).

r. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 USC 2931).

s. Kinship Payments – Kinship payments are foster care subsidies for children living with a related legal guardian. Previously, Public Housing Agencies (PHAs) included California's Kinship Guardian Assistant Payments (Kin-GAP) as income when determining annual household income. Congress and housing advocates sought our interpretation of the income criteria in order to remove a disincentive towards family unification and to treat Kin-GAP the same as foster care payments (PIH 2008-40).

t. Deferred Department of Veteran Affairs (VA) disability benefits that are received in a lump sum or in prospective monthly amounts. [Section 2608 of Title VI of Division B of the Housing and Economic Recovery Act (HERA) July 30, 2008].

PART II: Adjusted Income

7.3 Overview of Mandatory Deductions from Annual Income

(This section shall become effective July 1, 2025, upon the implementation HOTMA and applicable regulations and guidelines promulgated by HUD)

Adjusted income is the annual income of family members residing in or intending to reside in the rental unit, less allowable deductions of:

Child Care Expenses - A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed, but only when such care is necessary to enable a family member to be gainfully employed, to seek employment or to further their education. Amounts deducted must be unreimbursed expenses and shall not exceed: (1) the amount of income earned by the family member released to work; or (2) an amount determined to be reasonable by PHA when the expense is incurred to permit education or to seek employment (24 CFR 5.611(a) (4)).

Hardship Exemption for Child Care Expenses (24 CFR 5.611(d)).
A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue the deduction.

Hardship Exemption Eligibility: PHA will follow the verification hierarchy described in PIH Notice 2018-18 (Refer to Enterprise Income Verification System (EIV) Section). The family must demonstrate that:

- They are unable to pay their rent without the deduction and they must provide verification.
- The childcare expense is still necessary even though the family member is no longer employed or furthering education and they must provide verification.

If the exemption is granted, the childcare deduction will remain in place for up to 90 days. It may be extended at PHA's discretion, for additional 90-day periods depending on family circumstances.

Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction- Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed the HUD-established percentage of annual income threshold.

The threshold is currently set at three (3) percent of annual income. Effective July 1, 2025, upon implementation of HOTMA and subject to applicable HUD regulations and guidance, this amount will be increased to ten (10) percent of annual income.

Health and medical care expense deductions are permitted only for families in which the head, spouse, or co-head is elderly or disabled. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted. To be considered by PHA for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

(1) Medical expenses include unreimbursed expenses for:

- Any costs incurred in the diagnosis, cure, mitigation, treatment or prevention of disease; Payment for treatments affecting any structure of function of the body; and
- Medical insurance and long-term care premiums that are paid or are anticipated to be paid for the applicable period.

(2) Medical Expense Deduction - A deduction of unreimbursed medical expenses, including insurance premiums, anticipated for the period for which annual income is computed. Medical expenses include but are not limited to:

- Services of physicians and other health care professionals
- Services of health care facilities
- Health insurance premiums (including the cost of Medicare)
- Prescription and non-prescription medicines
- Transportation to and from treatment
- Dental expenses
- Eyeglasses
- Hearing aids and batteries
- Attendant care (unrelated to employment of family members)
- Payments on accumulated medical bills
- Effective June 1, 2004, and while in effect, for residents who have the Medicare Prescription Drug Discount Card, consider the market (prediscount)price of eligible drugs, not the discounted price
- Enrollment fee (up to $30) of the Medicare Prescription Drug Discount Card program, if not paid by Medicare. (PIH Notice 2004-11)

Work-related Disability Expenses – A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) able to work.

Equipment and auxiliary apparatus may include but are not limited to:

- Wheelchairs
- Lifts
- Reading devices for the visually impaired.
- Equipment added to cars and vans to permit their use by the disabled family member.
- Included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.
- For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income, provided the amount so calculated does not exceed the employment income earned.
- For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income (provided the amount so calculated does not exceed the employment income earned) plus medical expenses as defined below.

Hardship exemptions for unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expenses are now defined in 24 CFR 5.611(c).

There will be two types of hardships for the new ten (10) percent threshold for unreimbursed health and medical care expenses (for elderly and disabled families) and reasonable attendant care and auxiliary apparatus expenses (for families that includes a person with disabilities).

1. The first category, defined in 24 CFR 5.611(c)(1), is for families eligible for and receiving the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses deduction in effect prior to this final rule.

2. The second category, defined in 24 CFR § 5.611(c)(2), is for families that can demonstrate that the family's health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

   HUD is adding this second category in the final rule in recognition that the change from the three (3) percent threshold to the new ten (10) percent threshold for unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses may result in financial hardship for families, including those families who were not receiving the deduction or may not even have been receiving housing assistance at the time this rule went into effect.

   If eligible for this hardship relief, the family would receive a deduction for the eligible expense that exceeds five (5) percent of the annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or the 90-day period ends. PHA may, at its discretion, extend the relief for one (1) or more additional 90-day periods.

Hardship Category 1	2024 Recertification	2025 Recertification	2026 Recertification
<u>To qualify</u> family must already be receiving a medical expense deduction of 3% of Gross Income May request hardship 2 at any time	5% Of Gross Income	7.5% Of Gross Income	10% Of Gross Income
Hardship Category 2	90-Day Period	Additional 90-Day Periods	
<u>To qualify</u> families must demonstrate a financial hardship	5% of Gross income ends when there is no need for hardship or the 90-day period end	Families may request an additional 90-day period if they can demonstrate a financial hardship, subject to PHA's approval	

A deduction is taken for each qualifying dependent.

- The amount of the deduction is currently $480. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25.
- A dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student.
- Foster children, foster adults, and live-in aides are never considered dependents.

A deduction for elderly or disable family

- A single deduction is taken for any family where the head of household, co-head or spouse is as least 62 years of age or disabled.
- The amount of the deduction is currently $400. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to $525 and will be adjusted annually by HUD in accordance with CPI for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25.

HUD regulations require the PHA 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.

In determining adjusted income, the PHA must deduct the following amounts from annual income:

1. $480 for each dependent;
2. $525 for any elderly family or disabled family;
3. The sum of the following, to the extent the sum exceeds ten percent of annual income:
    a. Unreimbursed medical expenses of any elderly family or disabled family;
    b. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
4. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses). The PHA will estimate costs based on historic date and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, 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.

Dependent Deduction

[24 CFR 5.611(a)(1)]
A deduction of $480 is taken for each dependent. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents.

Elderly or Disabled Family Deduction

[24 CFR 5.611(a)(2)]
A single deduction of $525 is taken for any elderly family. An *elderly family* is a family whose head, spouse, or co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities.

Medical Expenses Deduction

[24 CFR 5.611(a)(3)]
Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of Medical Expenses

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities	Substance abuse treatment Psychiatric Treatment Ambulance services and some costs of transportation related to medical expenses

Hospitalization, long-term care and in-home nursing services Prescription medicines and insulin but not nonprescription medicine even if recommended by a doctor Improvements to housing directly related to medical needs (e.g. ramps for a wheel chair, handrails).	The cost and care of necessary equipment related to a medical condition (e.g. eyeglasses/lenses, hearing aids, crutches and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

Disability Assistance Expenses Deduction

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 ten 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

[24 CFR 5.611(a)(3)(ii)]

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.

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 disability assistance expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the HUD *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."

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payment to Family Members

No disability expenses may be deducted for payments to a member of a participant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the participant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

PHA determines the reasonableness of the expenses based on typical costs or care of apparatus in the locality. To establish typical costs, PHA will collect information from organizations that provide services and support to person with disabilities. A family may present, and PHA will consider the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as other medical or disability assistance expenses, PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

Child Care Expense Deduction

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care.

In case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses.

Qualifying for the Deduction

Determining who is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, 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

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each recertification. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by PHA.

Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care—although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type to be provided is determined by the participant family, PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

Allowable Child Care Activities

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 child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, PHA will prorate the costs and allow only that portion of the expense that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated.

Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of person under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

The PHA must determine whether child costs are "reasonable." Reasonable means reasonable for the care being provided. Reasonable costs for in-home care may be different from reasonable day-care costs. Families may choose the type of care to be provided. The PHA may not decide that the family may receive a deduction only for the least expensive type of care available.

Part III: Verification of Income

The PHA must verify all information used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. The PHA shall not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. Verification policies, rules, and procedures will be modified as needed to accommodate persons with disabilities.

7.4 Income Verification - Notice to Applicants and Consents

The family must supply any information that the PHA or HUD determined to be necessary for the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886-A, Authorization for Release of Information. 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. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failure to Consent

[24 CFR 5.230, 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 information hearing (participants) in accordance with PHA procedures.

Upon the implementation of HOTMA, families have the right to revoke consent by written notification to the PHA, however, revoking consent will result in termination or denial of assistance.

HUD's Verification Hierarchy

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

Effective July 1, 2025, upon implementation of HOTMA and subject to applicable HUD regulations and guidelines, PHA is required to use HUD's Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) in its entirety as a third-party source to verify employment and income information for annual reexamination, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance (24 CFR 5.233(a)(2)(i)).

Prior to initial certification, applicants shall be informed that PHA will subsequently verify the family's income information they have provided PHA through HUD's Enterprise Income Verification (EIV) system. EIV is a computer matching program that compares the income provided by the resident against income information supplied by state agencies on wages, unemployment compensation, and Social Security benefits. PHA will follow the verification hierarchy described in PIH Notice 2018-18:

Level	Verification Technique	Ranking

6	**Upfront Income Verification (UIV**), using HUD's Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) (not available for income verifications of new applicants)	Highest (Mandatory) (not available for applicants)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written Third-Party Verification	High (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.)
3	Written Third-Party Verification Form	Medium-Low (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third-Party Verification	Low (Mandatory if written-third party verification is not available) Low (Mandatory if written third- party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third-party verification)

Level 6: (Highest Ranking) Upfront Income Verification (UIV) and the Income Validation Tool (IVT) using HUD's EIV System which is mandatory for residents but not available for applicants;

Level 5: Upfront (Optional) Income Verification (UIV) using non-HUD system such as the Work Number;

Level 4: Written Third-Party Verification (High) (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute. Written third-party verification documents shall be original and authentic and may be supplied by the family or received from a third-party source. Third-party documents provided by the family shall be dated within 60 calendar days of PHA request date. If PHA determines that third-party documents provided by the family are not acceptable, PHA will explain the reason to the family and request additional documentation. Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination,

SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

Level 3: Written Third-Party Verification Form: (Medium–Low) Mandatory if written third-party verification documents are not available or rejected by PHA; and when the applicant or participant is unable to provide acceptable documentation.

When upfront verification is not available, rejected by PHA, or the family is unable to provide written third-party documents, or PHA shall request a written third-party verification form. PHA will send third-party verification forms directly to the third-party by regular mail, email, fax, or email third-party written verification form requests to third-party sources. At least two (2) documented attempts must be made for written third-party verification before obtaining oral (telephone or in person) third-party verifications. The file must document the attempts made to obtain third-party verification.

Level 2: Oral Third-Party Verification: (Low) Mandatory if written third-party verification is not available. Level 2 oral verifications will be used when written verification is not obtained within ten (10) business days from the date that the written verification was mailed, faxed or e-mailed directly to the independent source. Documentation shall be placed in the applicant or resident file and on PHA's computer system notes and shall indicate the name(s) of the person(s) who provided the information and date of the communication, as well as the name of the staff person who obtained the information.

Level 1: (Low) Use as a last resort when unable to obtain any type of third-party verification. Level 1 tenant certifications will only be used as a last resort when all other verifications are not possible. When PHA relies on applicant/tenant certification (notarized statement or affidavit), the file must be documented as to the reason the oral third-party verification was not available.

If income information in EIV is not available or if it is substantially different from tenant-provided information, then written verification from third parties is the next most desirable form of verification. Currently, a substantial difference requiring third party verification in cases where EIV income data differs from tenant-provided and/or other verified income information is defined as being greater than $200 per month ($2,400 per year), unless amended by PHA. If EIV income data is not substantially different than current tenant-provided income documentation, the following guidelines for projecting annual income will be used:

- If EIV income data is less than current tenant-provided documentation, PHA will use tenant-provided documents to calculate anticipated income.

- If EIV income data is more than current tenant-provided documentation, PHA will use EIV income data to calculate anticipated annual income unless the tenant provides PHA with documentation of a change in circumstances (i.e., change in employment, reduction in hours, etc.). Upon receipt of acceptable tenant-provided documentation of a change in circumstances, PHA will use tenant-provided documents to calculate anticipated annual income.

In cases where EIV income data is substantially different than tenant-reported income, PHA will utilize the following guidelines:

- Request written third party verification from the discrepant income source. For EIV Social Security Administration (SSA) benefit discrepancies, PHA shall require the tenant to obtain a current unaltered SSA benefit letter within ten (10) business days of the interview date.

- Review historical income data for patterns of employment, paid benefits, or receipt of other income, when PHA cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.

- Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.

- Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

In verified differences of greater than $200 per month ($2,400 per year), PHA may require the family to enter into a repayment agreement for monies owed or require payment in full. Should the family refuse to enter in a repayment agreement or not fulfill its obligations under its repayment agreement, PHA shall recommend termination and may refer the case to the HUD Office of the Inspector General. PHA, in its sole discretion, may recommend terminating assistance for tenant fraud on a case-by-case basis, e.g., forgery or has demonstrated a pattern of unreported or underreported income in between or at prior reexaminations. In such cases, PHA will make the determination whether to recommend terminating assistance and forwarding the case to the HUD Office of Inspector General via PHA.

In instances where fraud, as defined, as opposed to tenant error, has occurred by the tenant and the difference is verified as being $10,000, PHA may recommend terminating housing assistance and shall forward cases to the HUD Office of Inspector General for fraud prosecution, where authorized by PHA.

Tenant income information derived from the EIV system is confidential and cannot be released to outside parties or unauthorized staff. This information is exempt from the disclosure requirements of the Florida Public Records Act and HUD requires PHA to keep said information private under penalty of Federal law. Any EIV-derived information is required to be kept guarded under lock and key and must be shredded and destroyed when no longer needed. Copies are not kept in tenant files to avoid risking the release of such information to anyone other than the client and authorized PHA staff. PHA shall provide the participant with information obtained through EIV upon the participant's request.

Unauthorized disclosure or inspection of EIV data can result in a felony conviction punishable by a fine up to $5,000 or five (5) years imprisonment, as well as civil penalties, pursuant to the Privacy Act of 1974 as amended, 5 U.S.C. 552(a).

Income Validation Tool (IVT)
(This Section effective July 1, 2025, upon implementation of HOTMA, and applicable regulations and guidelines promulgated by HUD).

The IVT report facilitates and enhances identification of unreported or under-reported income during regular reexaminations. The IVT also provides income and wage, unemployment compensation and SSA benefit information. Additionally, the IVT report provides income information for heads of household and family members where there may be discrepancies in family reported income and employer reported information.

At each regular reexamination of income and family composition and/or as needed, PHA will:

- Review the EIV Income and IVT reports to confirm/validate tenant-reported income;
- Print and maintain the EIV Income and IVT Reports in the tenant file;
- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and
- Use current tenant-provided documentation and/or third-party verification to calculate annual income.

Additionally, at each regular reexamination of income and family composition, and/or as needed, using the IVT, PHA will:

- Identify any reported discrepancies in family reported income and employer reported information;
- Request the tenant to provide any documentation to confirm or dispute the income discrepancy;
- If applicable, determine the tenant rent using the correct and updated income;
- Determine the degree of tenant underreporting or misreporting of income information; and
- Take action in accordance with PHA policy to resolve the identified discrepancies.

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. Below are the six levels of priority for the forms of verification the PHA will utilize:

LEVEL 6 (HIGHEST) Upfront Income Verification (UIV)	Upfront Income Verification using HUD's Enterprise Income Verification (EIV) system. Highest Ranking and mandatory other than for new admissions.
LEVEL 5 Upfront Income Verification (UIV) (Optional)	Optional using non-HUD system such as the Work Number.
LEVEL 4 (HIGH) Written Third-Party Verification	**Mandatory** to supplement EIV reported income and when EIV has no data available. Mandatory if participant disputes EIV reported income and is unable to provide acceptable documentation. This level of verification includes documents issued by a third party and may be hand-delivered by the applicant or participant.
LEVEL 3 (MEDIUM-LOW) Written Third-Party Verification Form	Mandatory <u>if</u> written third party verification documents are not available or rejected by PHA; and when the applicant or participant is unable to provide acceptable documentation.
LEVEL 2 (LOW) Oral Third Party Verification	Mandatory if written third party verification at Level 4 or 3 is not available.
LEVEL 1 (LOW) Participant Self-Declaration	Use as a last resort when unable to obtain any type of third party verification.

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are requested by the PHA. The documents must not be damaged, altered or in any way illegible. Print-outs from web pages are considered originals.

Any family self-certifications must be made in a format acceptable to the PHA and must be notarized.

File Documentation

The PHA will maintain in the family file the following documentation:

- Reported family annual income;
- Value of assets (if any reported);
- Expenses related to deductions from annual income;
- Other factors influencing the adjusted income or income-based rent determination.

When the PHA is unable to obtain Third-Party Verification, the PHA will document in the family file the reason that the third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2010-19]

Enterprise Income Verification (EIV) Not Used for New Admissions

The EIV system cannot be used for income verification at admission into the HCV Program. Therefore, the PHA will utilize Verification Methods Levels 4 through 1 in that order as listed above to conduct income verification at initial entry to the HCV and Mod-Rehab Programs. Note that the EIV system must be used to determine whether the applicant is receiving assistance under another housing program or owes monies to a PHA.

Thereafter, the PHA must utilize the EIV system within 120 days of program admission to verify the information provided by the household, resolve any discrepancies within 60 days and maintain EIV income report on file.

7.5 Upfront Income Verification Using EIV System (Mandatory)

EIV is used to verify income for recertification, annual, interim and change of dwelling, or on a random basis.

The EIV system also will be utilized to verify information such as family members' personal identifier information (name, date of birth and social security numbers).

PHA will comply with the most recent HUD guidance on verification requirements. PHA will utilize the verification guidelines under PIH Notice 2010-19 (issued May 17, 2010 and as extended by 2012-26 and 2012-26), Verification Guidance, and PIH 2010-03 (issued January 21, 2010), Verification of Social Security and Supplemental Security Income benefits, as applicable, and any subsequent guidelines and regulations issued by HUD.

Administration of Verification Levels below Level 4

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification" (LEVEL 4), 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" (LEVEL 3). This is a standardized form used to collect information from a third party.

Written Third Party Verification (LEVEL 4)

[Notice PIH 2010-19]
Written third-party verification documents consist 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.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will be required to provide new documents.

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.

If third party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempts have failed.

Written Third Party Verification Form (LEVEL 3)

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 documentation.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually) and there is no UIV or tenant-provided documentation to support this income discrepancy.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

At least two (2) documented attempts must be made for written third party verification before obtaining oral (telephone or in person) third party verifications.

Oral Third-Party Verification (LEVEL 2)

[Notice PIH 2010-19]
Oral third-party verification is mandatory if neither form of written third-party verification is available. This type of verification will be used when written verification is not obtained within 15 days from the date that the written verification was mailed, faxed or e-mailed directly to the independent source.

PHA 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.

If oral third party verification cannot be obtained, PHA must document in the file the reason the third party verification was not available.

Self-Certification (LEVEL 1)

Self-Certification or "tenant declaration" is used as a last resort when the PHA is unable to obtain third-party verification.

When the PHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be notarized.

Verification Process for Annual Recertification

The PHA will utilize EIV for annual and interim recertifications. For each annual recertification of family income and composition, the PHA is required to have the following documentation in the participant file:

a. *No Dispute of EIV Information:*

EIV Income Report.

b. *Substantial Difference in or Disputed EIV Information:*

EIV Income report, current acceptable participant-provided documentation, and/or third party verification form(s) for disputed information.

c. *Participant-Reported Income Not Verifiable Through EIV System or Participant Request to Use Anticipated Income:*

Current participant-provided documents, and *if necessary* (as determined by the PHA), third party verification form(s).

The PHA will follow guidance set forth PIH Notice 2010-19 as may be amended by 2013-03, 2013-03 FAQs and 2013-04 regarding documentation required to be kept in the participant file for interim

recertifications, historical readjustments and new admission income verifications as well as processes to address incorrect information found in the EIV system.

When Third Party Verification is Required

The PHA must require third party verification under the following circumstances:

a. When the participant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b)).
b. When the PHA requires additional information that is not available in EIV and /or the participant is unable to provide the PHA with current acceptable participant-provided documentation. Examples of additional information, includes but is not limited to:
    i. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
    ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
    iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.).

The PHA will obtain as much information as possible about employment income, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.

Unreported Income or Substantial Difference in Participant-Reported Income and EIV-Reported Income

If the EIV Report reveals an income source that was not reported by the participant or a substantial difference in the reported income information, the PHA must take the actions set forth below.

A substantial difference is defined as an amount equal to or greater than $200 per month or $2,400 per year.

The PHA must:

a. Discuss the income discrepancy with the participant; and
b. Request the participant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
c. In the event the participant is unable to provide acceptable documentation to resolve the income discrepancy, the PHA is required to request from the third-party source, any information necessary to resolve the income discrepancy; and
d. Review historical income data for patterns of employment, paid benefits, or receipt of other income when the PHA cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.

e. Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.

f. Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

g. If applicable, determine the participant's underpayment of rent as a result of unreported or underreported income, retroactively (see below discussion of Repayment Agreement); and

h. Take any other appropriate action as directed by HUD or the PHA's administrative policies.

Unsubstantial Differences in Reported Income and EIV Report

In cases in which the participant requests that anticipated income be used to determine annual income and the EIV income data is not substantially different than current participant-provided income documentation, the following guidelines for projecting annual income will be used:

a. If EIV income data is less than current participant-provided documentation, the PHA will use participant provided documents to calculate anticipated income.

b. If EIV income data is more than current participant-provided documentation, the PHA will use EIV income data to calculate anticipated annual income unless the participant provides the PHA with documentation of a change in circumstances (i.e., change in employment, reduction in hours, etc.). Upon receipt of acceptable participant-provided documentation of a change in circumstances, the PHA will use participant-provided documents to calculate anticipated annual income.

Participant Opportunity for Informal Hearing

The participant must be provided an opportunity to contest the PHA's determination of participant rent underpayment. HUD regulations require PHAs to promptly notify participants in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The participant may contest the findings in accordance with the PHA's established grievance procedures, as required by HUD. The PHA may not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

Demonstrating Compliance with Mandatory Use of EIV

In accordance with 24 CFR 5.233(a)(2)(i), PHA must demonstrate compliance with mandated use of EIV.

The PHA will monitor the following EIV reports on a ***monthly*** basis:

1. Deceased tenants report
2. Identity verification report
3. Immigration report

The PHA will monitor the following EIV reports on a ***quarterly*** basis:

1. Income discrepancy report
2. Multiple subsidy report
3. New hires report

7.6 Repayment Policy

Participants are required to reimburse the PHA or the property owner by entering into a repayment plan agreement when it is determined that participants owe monies due to certain circumstances including, but not limited to, the participant's under reporting or failure to report income, participant-caused property damages, etc. If the participant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA must terminate the family's tenancy or assistance, or both. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.

Repayment Agreement

The term repayment agreement refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

All repayment agreements must be in writing, dated, signed by both the head of household (and spouse/co-head, if applicable) and the PHA, include the total amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

a. The monthly repayment amount is in addition to the family's regular rent contribution and is payable to the PHA or directly to the property owner.
b. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
c. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHAs are required to determine retroactive rent amount as far back as the PHA has documentation of family reported income. For example, if the PHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, the PHA is only able to determine retroactive rent for the three years for which documentation is available.

The monthly retroactive rent payment plus the amount of rent the participant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income.

The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Participants have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above.

Should the family refuse to enter into a repayment agreement or not fulfill its obligations under its repayment agreement, the PHA shall recommend termination and may refer the case to HUD's Office of the Inspector General.

Due Dates

All payments are due by the close of business on the 1st day of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.

Late or Missed Payments

If a payment is not received by the end of the business day on the date due PHA will send the family a delinquency notice giving the family 30 days to bring the account current. If the payment is not received by the due date of the first delinquency notice, a final delinquency notice will be sent. If the payment is not received by the due date on the final delinquency notice (10 days), it will be considered a breach of the agreement and PHA will terminate the assistance.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving repayment agreements involving amounts owed by a family because it underreported or failed to report income.

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every recertification and the grounds on which the PHA may terminate assistance because of a family's action or failure to act.
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner.
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.

The PHA will limit renegotiations of the family's repayment agreement to one renegotiation during the term of the agreement.

7.7 Misrepresentations and Fraud in Provision of Information

An applicant or participant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, income or rent will result in action to reject the applicant or terminate the participant's assistance. A household member's intentional misrepresentation of information in the absence of the participant's knowledge will subject such member to action that may result in requiring the member to be excluded from living with the household in an assisted unit. Unintentional mistakes that do not confer any advantage to the applicant/participant household will not be considered misrepresentations.

The PHA, in its sole discretion, may recommend terminating assistance for tenant fraud on a case-by-case basis, e.g., forgery or has demonstrated a pattern of unreported or under-reported income in between or at prior recertifications. In such cases, the PHA will make the determination whether to recommend terminating assistance and forward the case to HUD's Office of Inspector General.

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Chapter 8 – Total Tenant Payment (TTP), PHA Subsidy, and Family Share of Rent

This chapter describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining the PHA subsidy and required family payment.

8.1 Determining Family Share

The total tenant payment (TTP) represents the minimum a family must contribute toward rent and utilities regardless of unit selected. To calculate TTP, annual adjusted income and annual (gross) income must be converted to monthly adjusted income and monthly gross income by dividing the annual figures by 12 months.

TTP Formula

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% of the family's monthly adjusted income;
- 10% of the family's monthly gross income.

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

The PHA elects not to impose a minimum rent based on the fact that the majority of clients (if not all) claiming zero income meet the financial hardship exception categories identified below.
Under HUD regulations, there are hardship exemptions to the minimum rent requirements under the following situations: (1) the family has lost eligibility determinations for a Federal, State, or local assistance program: (2) the family would be evicted as a result of the imposition of the minimum rent requirement: (3) the income of the family has decreased because of changed circumstances, including loss of employment; (4) a death in the family has occurred; and (5) other circumstances determined by the PHA or HUD.

Families or individuals claiming zero income must provide certification of such fact and will need to report income status quarterly.

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. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued.

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 TTP, or (2) the gross rent for the family's unit minus the TTP.

Utility Reimbursement
[24 CFR 982.514(b)]
When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

8.2 Applying Payment Standards

Payment Standard

A payment standard is used to calculate the monthly housing assistance payment for a HCV family. Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the TTP by the family)." The payment standard is based on the Small Area Fair Market Rent (SAFMR) as published by HUD and established by bedroom size.

Small Area Fair Market Rent (SAFMR) Definition
Small Area Fair Market Rents (SAFMRs) are annual ZIP code-based estimates of rent plus the cost of utilities (except telephone) that are set by HUD for use in the administration of tenant-based assistance under the HCV program. SAFMRs are required to be used by PHA in areas designated by HUD. PHA in area designated for mandatory use of SAFMRs is referred to as "Designated SAFMR PHA". (24 CFR §888.113(a))

The payment standard is the maximum monthly subsidy payment the PHA will make for a family based on the unit size that the PHA determines as appropriate for the family. The PHA will set up an applicable payment standard schedule between 90% and 110% of the published FMR for each bedroom size in accordance with HUD regulations.

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); or

2. the payment standard for the size of the dwelling unit rented by the family.

Exception payment standard
Decrease in the payment standard amount during the HAP contract term. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) amended the United States Housing Act of 1937 to provide that no PHA is required to reduce a family's payment standard based on a reduction in the FMR. The SAFMR Final Rule amends the voucher program regulations at 24 CFR §982.505(c)(3) to reflect the change made by HOTMA, providing PHA with options for applying a decrease in the payment standard amount to families under HAP contract on the effective date of the decrease in the payment standard amount. Where families are under HAP contract on the effective date of a decrease in the payment standard amount,

The City will implement the *No change in policy* option:

> *Two years after effective date - the PHA may choose to reduce the payment standard amount used to calculate such a family's subsidy no earlier than two years following the effective date of the decrease in the payment standard.* 24CFR982.505(c)(3)(i)

Payment standard decreases will automatically take effect when the family moves, has a change in family composition/size, or at the second annual reexamination. (Notice PIH 2018-01 (4)(e)(iii))

Amount of Monthly Housing Assistance Payment (HAP) Amount:

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.

Applying Changes in Payment Standards During Term of a HAP

The following factors will be considered in the assessment of the adequacy of the payment standard:

- *Success rates of program participants:* The PHA will review the average time required for voucher holders to find units and the number whose vouchers expire without having leased a unit due to difficulty of locating a suitable unit.
- *Availability of suitable vacant units with rent below the payment standards (Rent survey data):* The PHA will review its rent reasonableness data, vacancy rate data, and other relevant information to determine whether there is an ample supply of vacant units with rents below the payment standard amounts in each bedroom category.
- *Rent burdens of program participants:* The PHA will review the percentage of income voucher families use to pay rent to determine the extent to which rent burdens exceed 30 percent of

income. The PHA will review the payment standard for adequacy when thirty percent (30%) or more of the families have high rent burdens.

- *Availability of greater housing choices:* The PHA will review the capacity for families to be mobile (i.e., ability of families to locate housing outside of high poverty areas) and their fair housing choice (i.e., the ability of families to locate housing outside areas of minority concentration).

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.

Decreases in Payment Standard

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular recertification following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family.

Increases in Payment Standard

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular recertification on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim recertifications will not have their HAP payments calculated using the higher payment standard until their next annual recertification.

Changes in Family Unit Size

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

Reasonable Accommodations

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 within the basic range.

8.3 Utility Allowances

Overview

Should the HAP payment exceed the rent to the owner, the balance must benefit the family in the form of a utility reimbursement.

The PHA may pay the utility reimbursement either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

Application

The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the PHA subsidy standards).

Utility Allowance Revisions

At time of a family's recertification, the PHA must use its current utility allowance schedule.

Revised utility allowances (utility allowance schedule) will be applied to a family's rent and subsidy calculations at the first recertification that occurs after the revised utility allowance schedule is adopted.

The PHA maintains utility allowance schedules for all commonly used utilities as set forth in 24 CFR 982.517. Such schedules apply to the Housing Choice Voucher and Mod-Rehab units. The utility allowance schedules are by unit size and typical unit types in the City of Miami. Utility allowances are not meant to provide a dollar for dollar recapture of utility payments, but are an estimate of the monthly cost of a reasonable consumption of utilities by energy-conservative households that occupy housing of similar size and type in the same locality. The utility allowance schedules are reviewed and revised annually. If there is a ten percent (10%) increase or decrease in utility rate in any utility category since the last revision, the utility allowance schedules must be revised utilizing a form prescribed by HUD. The PHA must maintain on file information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule.

To perform its annual review, the PHA will rely upon the following information: Utility Allowance schedules from the Miami-Dade Housing Agency (the PHA for Miami-Dade County) or other housing authorities within Miami-Dade County to review ongoing rates currently in use, estimates and/or actual data from utility companies and program participants to compare with other utility allowance schedules.

Reasonable Accommodation

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 in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

The family must submit a request for a higher utility allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.

8.4 Pro-Rated Assistance for Mixed Families

HUD regulations prohibit assistance to ineligible family persons in a mixed family. A *mixed family* is one that includes at least one US citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate assistance provided to a mixed family. The PHA will first determine assistance as if all the family members are eligible for assistance and then prorate the assistance based upon the percentage of family members who are actually eligible.

Chapter 9 – National Standards for the Physical Inspection of Real Estate (NSPIRE), Housing Quality Standards, and Rent Reasonableness Determination

The PHA will inspect all units to ensure that the units are in a decent, safe and sanitary condition in accordance with the National Standards for the Physical Inspection of Real Estate (NSPIRE) and Housing Quality Standards (HQS) as described in 24 CFR § 982.401, interpretative guidance of acceptability criteria in Form HUD 52580-A Inspection Checklist and the HUD Housing Inspection Manual. PHA will transition from HQS to NSPIRE on the HUD required deadline of October 1, 2025.

The **National Standards for Physical Inspection of Real Estate (NSPIRE)** is a protocol designed to align, consolidate, and improve the physical inspection regulations for HUD-assisted housing programs. It aims to reduce health and safety hazards in homes and improve the quality of dwelling units. (PIH Notice 2023-16/H 2023-07).

Part I – National Standards for the Physical Inspection of Real Estate (NSPIRE), Housing Quality Standards, and Inspections

9.1 Initial Inspections

No unit will be placed under an initial contract until the unit is inspected for compliance with NSPIRE/HQS. If violations are found, any and all violations must have been corrected and the unit must have been approved by the PHA. The initial inspection will be made as quickly as possible, but no later than 10 business days after the owner's request.

If the unit fails inspection, the family and owner will be advised of the repairs needed to pass inspection and the owner will be given ten (10) business days to correct the failed items. The re-inspection will be automatically scheduled and completed 10 business days following the initial fail unless the owner or tenant decides to cancel the Request for Tenancy Approval for the unit before the expiration of the 10-business day period. If the Request for Tenancy Approval is voided, the family must find another suitable unit within time remaining on the Housing Choice Voucher.

Approval for the tenant to move in will not be given until the unit passes inspection, reasonable rent has been established, and the executed lease, including the HUD-prescribed tenancy lease addendum, has been submitted.

The PHA reserves the right to limit the number of opportunities for such re-inspection, particularly of units desired, but not currently occupied, by a voucher holder.

9.2 Annual Inspections

Each unit under contract will be inspected at least annually or any other time and as often as deemed necessary by the PHA to determine compliance with the PHA or inspection standards. Written notice of the annual inspection date will be mailed to the tenant, with a copy to the owner. It is the tenant's responsibility to ensure the PHA and the owner, as may be required, have access to the unit and premises.

The participant must allow inspections to be made by the PHA. Failure to gain access to the unit and premises to conduct annual inspections and any subsequent re-inspections is a violation of the family's obligations and may result in termination from the program.

Additionally, the participant must allow the owner to make repairs upon reasonable notice and at reasonable hours. Failure of the participant to give access to the unit to allow inspections and/or repairs in compliance with the lease and housing program rules and regulations shall result in the family's termination from the program.

The family is responsible for NSPIRE/HQS violations caused by:

1. The family's failure to pay for tenant supplied utilities;
2. The family's failure to provide and maintain tenant supplied appliances; and/or
3. Damage caused by the family or guest to the assisted unit or premises.

All other NSPIRE/HQS violations must be corrected by the owner.

The PHA will provide written notice to owners and tenants of specific NSPIRE/HQS requirements that fail the Inspection. The notice will note whether violations are the tenant's or the owner's responsibility.

Owners and tenants will be given twenty-four (24) hours to correct any NSPIRE/HQS violation that is considered an emergency/life-threatening deficiency as described below. Owners and tenants must correct all other NSPIRE/HQS violations within 30 days of the annual inspection. Failure to gain entry to the unit and premises for the purposes of conducting a re-inspection will result in sanctions to the tenant and/or owner.

Inspectable Areas

The NSPIRE final rule defines the inspectable areas for the inspection as inside, outside, and units of HUD housing at 24 CFR 5.703:

Unit. A unit (or "dwelling unit") of HUD housing refers to the interior components of an individual unit.

Inside. Inside of HUD housing (or "inside areas") refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit.

Outside. Outside of HUD housing (or "outside areas") refers to the building site, building exterior components, and any building systems located outside of the building or unit.

The inspectable areas for HCV, PBV, and the Mod Rehab programs are defined at 5.705(a)(2): The inspection requirement for the tenant-based HCV program and the unit inspection for the PBV and Moderate Rehabilitation programs only applies to units occupied or to be occupied by HCV, PBV, and Moderate Rehabilitation participants, and common areas and exterior areas which either service or are associated with such units.

NSPIRE Standards

The focus of NSPIRE is on the condition of dwelling units and prioritizing the health and safety of residents. NSPIRE Standards Federal Register 88 FR 40832.

Affirmative Habitability Requirements

NSPIRE also provides for minimum, or affirmative, habitability requirements for each "area" (unit, inside, outside). The areas must meet these requirements for habitability. These affirmative habitability requirements are noted specifically in the Standards, but can also be found in 24 CFR 5.703(b), (c), and (d).

HOTMA Life-Threatening List under the Housing Opportunity Through Modernization Act of 2016 (HOTMA), as part of the "Implementation of Various Section 8 Voucher Provisions," HUD published a list of life-threatening conditions ("HOTMA LT List") in the Federal Register (82 FR 5458). HUD has included the HOTMA LT List in the NSPIRE Standards and this life-threatening (LT) will become mandatory for all HCV PHAs at the time of NSPIRE implementation. The HOTMA LT List, published with the final NSPIRE Standards on June 22, 2023, will no longer be discretionary. In addition to being listed within the individual Standards, the HOTMA LT List can also be found separately in Table 65 of the HUD NSPIRE Standards (88 FR 40832).

NSPIRE life-threatening deficiencies include the following:

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.
Clothes Dryer Exhaust Ventilation	Electric dryer transition duct is detached or missing.
	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 extinguisher 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.
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 Sprinkler Assembly	Smoke alarm is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.
	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
Sprinkler Assembly Structural System	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 exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
Water Heater	Gas shutoff valve is damaged, missing, or not installed.

Timelines for Correcting Deficiencies

HUD has aligned NSPIRE with HOTMA, and for the HCV programs, Life-Threatening deficiencies must be corrected within 24 hours after such notice has been provided. All other non-life-threatening deficiencies, known as Severe and Moderate, must be corrected within 30 days (or a PHA-approved extension) after such notice has been provided. There are some deficiencies considered Low that even if present in the HCV programs will result in a pass and would only be noted by the inspector for information purposes. If a failed deficiency (Life-Threatening, Severe, or Moderate) is not corrected within the required timeframe, the PHA must initiate Housing Assistance Payment (HAP) Contract enforcement, which can include withholding or abatement of assistance payments, terminations, or relocations. Notice PIH 2024-26, Rev-1.

Abatement for Noncompliance Due to Violations that are Owner Responsibility

Except in the case of life-threatening violations requiring NSPIRE/HQS violations to be corrected within 24 hours, the owner shall be provided with a 30-day written Notice of Abatement in the following manner:

1. If the units does not pass an NSPIRE/HQS inspection, the Housing Inspector shall provide the landlord with (1) a 30-day Notice to Cure and the (2) Failed Inspection Report #1. The Housing Inspector shall also immediately inform the City of Miami Housing Inspection Unit of the failed inspection and forward the 30-day Notice to Cure and the Failed Inspection Report to the client and to the City of Miami's Housing Inspection Unit. The 30-day Notice to Cure shall include the date the Housing Inspector will be returning to perform the NSPIRE/HQS compliance inspection and provides the landlord with notification that failure to pass the NSPIRE/HQS compliance inspection will result in abatement of the Housing Assistance Payment (HAP) portion of the contract rent to the owner.

2. Upon failure of the owner to correct the NSPIRE/HQS violations within the provided time frame in the 30-day Notice to Cure, the Housing Inspector shall notify the City of Miami Housing Inspection Unit of the failed inspection and forward the Failed Inspection Report #2 along with a copy of the previously sent (to owner) 30-day Notice to Cure and the Failed Inspection Report #1.
3. Once documentation is received for the Housing Inspector, the PHA's Housing Inspection Unit shall issue a Notice of Abatement. This notice advises the owner that the entire HAP payment has been abated and also serves as written notification that provides at least 30-days advance notice to the owner of the termination of the HAP contract if the unit fails to pass NSPIRE/HQS inspection within 90 days of the date of the last failed inspection (Failed Inspection Report #2).

Abatement starts on the first day of non-compliance (Date of Inspection on the Failed Inspection Report #2) and ends the day the unit passes NSPIRE/HQS inspection.
Note: If the unit has not passed NSPIRE/HQS inspection within 10 business days from the Notice of Abatement, the PHA shall issue the tenant a voucher for the tenant to start searching for another suitable unit that meets program requirements. However, if the owner makes the required correction(s) (while in abatement) and the unit passes NSPIRE/HQS inspection prior to the client being approved to move out of the unit (within 90 days of the date of the last failed inspection (Failed Inspection Report #2), the PHA may rescind the termination of the HAP contract if the client wishes to continue residing in such unit.

During abatement and while the client continues to reside in the unit, the client remains obligated to pay his/her portion of the rent. The owner may not use the abatement of HAP payment as a basis for evicting the client. The owner must not seek payment from the family for any abated amount.

The unit may remain in abatement status for up-to 90 days upon which the HAP contract will terminate automatically.

Life threatening NSPIRE/HQS violations must be corrected within 24-hours. If the NSPIRE/HQS violations are still not corrected within those 24 hours (following normal abatement procedures as described above, but adjusting any advance notice due to the emergency/life-threatening deficiency), the PHA's Housing Inspection Unit shall issue a Notice of Abatement and the client shall be issued a voucher immediately.

Abatement for life threatening NSPIRE/HQS violations starts on the first day of non-compliance (Date of Inspection on the Failed Inspection Report #2) and ends the day the unit passes NSPIRE/HQS inspection.

Noncompliance due to Violations that are Tenant Responsibility

For violations that are deemed the tenant's responsibility, tenants will be given twenty-four (24) hours to correct any NSPIRE/HQS violation that is considered an emergency/life-threatening deficiency as described below. Tenants must correct all other NSPIRE/HQS violations within 30 days of the annual inspection. Failure to gain entry to the unit and premises for the purposes of conducting a re-inspection will result in recommendation for tenant's termination from the program.

If violations are not corrected within the above time frames, the tenant will be recommended for termination from the program. Both the owner and tenant shall be notified in writing by the PHA. If the tenant requests a compliance inspection within 10 business days from the date of notice of intent to terminate program assistance, and the unit passes, PHA will cancel the termination process.

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.

Should a tenant's participation be recommended for termination for NSPIRE/HQS violations in the unit, they will be entitled to a hearing in accordance with this Plan. While the hearing proceedings and decision are pending, HAP will continue to the owner provided the owner is in compliance with all other provisions of the HAP Contract, but not for longer than a period of 90 days from the date of the failed inspection or the end of the tenancy, whichever is shorter.

Should the owner evict the tenant for tenant-responsible NSPIRE/HQS violations, the owner may be paid through the date of eviction. For the payment to be approved, the owner must provide evidence that the eviction has been completed.

In the event that the family's participation is terminated as a result of a hearing decision, and the family remains in the unit, the family is responsible for the full rent to the owner. The PHA shall notify the owner and tenant by mail of the determination of a unit failing compliance inspection, abatement or termination of assistance.

If there are both tenant and landlord responsible violations, HAP will be abated and tenant's assistance may be recommended for termination according to HUD regulations.

9.3 Complaint Inspections

Complaints regarding legitimate NSPIRE/HQS issues will be investigated by the PHA. Complaint inspections will be scheduled by mail or telephone. NSPIRE/HQS failures as a result of complaint inspections will be enforced by the PHA in the same manner as annual inspections.

9.4 Quality Control Inspections

Quality Control inspections will be conducted to ensure that inspections are in conformance with NSPIRE/HQS, to verify the accuracy and efficiency of inspection personnel, and to monitor and document program performance. It is the intent that these inspections and the keeping of records will assist in the identification and prevention of repeated violations. Quality Control inspections will be conducted by a staff member of the PHA, trained and experienced in conducting unit inspections.

The quality control inspection is a re-inspection of units recently inspected. Selection of the units for quality control inspections is done randomly by the Quality Control Inspector or Supervisor from a computer listing of all recently inspected units and should be a cross-section of neighborhoods and a cross-section of the work of inspectors to include the work of each inspector. NSPIRE/HQS failures resulting from quality control inspections will be enforced in the same manner as annual inspections.

Emergency/Life Threatening NSPIRE/HQS Violations

The following items constitute emergency/life-threatening deficiencies NSPIRE/HQS violations, which may be attributed to the landlord, the tenant, or both and need to be remediated within 24 hours of PHA notification:

1. No electricity
2. No running water
3. No gas if heat, hot water or range powered by gas
4. Natural gas leak or fumes from fuel burning appliances/equipment
5. Major plumbing leaks or flooding, (such as sewer back up or water line breakage)
6. No operational sanitary facilities
7. Inoperable smoke detectors
8. Any electrical fixture or equipment that smokes, sparks, or short circuits creating a shock or fire hazard
9. Uninhabitable units due to fire, hurricane, major storm, tornado or flood or
10. Destroyed/vandalized units that prevent a tenant from using the bathroom or kitchen.
11. Any other condition that jeopardizes the security of the unit
12. Structural hazard including imminent structural collapse
13. Obstacles that prevent safe entrance or exit from the unit
14. Conditions that present the imminent possibility of injury

If the owner fails to correct emergency/life threatening deficiencies as required by the PHA, the housing assistance payment will be abated and the HAP contract will be terminated.

If a family fails to correct a family-caused emergency/life threatening deficiency as required by the PHA, the PHA may terminate the family's assistance.

The owner will be required to repair an inoperable smoke detector unless PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

Ongoing Maintenance Required for Compliance with 24 CFR Part 35, Lead- Based Paint

The owner and PHA are required to conduct a visual assessment for deteriorated paint and failure of any hazard reduction at time prior to move-in and at least annually. In addition, the owner is required to make corrections of deteriorated paint and any failed lead hazards reduction measures.

All painted surfaces of all buildings used or intended to be used, in whole or part for human habitation shall be kept free of deteriorated paint surfaces. Deteriorated paint surfaces is defined as any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating

located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

All deteriorated paint must be stabilized or abated, even if the property is exempt under the Lead Based Paint Poisoning Prevention Act (42 U. S. C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U. S. C. 4851-4856), and part 35, subparts A, B, M, and R of Code of Federal Regulations (CFR).

Property with deteriorated paint that is specifically exempt from part 35, subparts A, B, M, and R of the Code of Federal Regulations *(i. e. property where all occupants are age 6 or older; property that is built after January 1, 1978; property that has zero bedrooms; property where all lead-based paint has been removed or the property has been found to be free of lead-based paint by a certified lead-based paint inspector),* will not require a clearance examination but will still need to be stabilized or abated according to "safe work practices".

Smoke Detectors

At least one sealed 10-year battery-operated or hard-wired smoke detector in proper operating condition must be present on each level of the dwelling unit, including basements, but excluding spaces and unfinished attics. Such detectors must be installed in accordance with and meet the requirements of National Fire Protection Association Standards (NFPA) 74 or its successor standards and if a hearing-impaired person is occupying the dwelling unit, the smoke detectors must have an alarm system designed for the hearing-impaired as specified in NFPA 74. (Notice PIH 2024-16, REV-1)

Carbon Dioxide Detection and Alarms

Units must have carbon dioxide detectors and alarms that are IFC-compliant depending upon certain conditions in the unit and property. Such conditions are set forth in the Carbon Dioxide Alarm Certification" form **(Carbon Dioxide (CO) Certification Form)** which must be used by Housing Inspectors to determine if detection and alarms are required and, if so, whether the unit is in compliance.

CO Alarm is required when any of the four conditions below exist unless an exception applies as described in the "Carbon Dioxide Alarm Certification" **(Carbon Dioxide (CO) Certification Form)**:

1. Unit contains a fuel-burning appliance or a fuel-burning fireplace (fuel-burning such as natural gas or propane).
2. Unit is served by fuel-burning, forced-air furnaces.
3. Unit is located in a building that contains a fuel-burning appliance or fuel-burning fireplace, even if outside of the unit.
4. Unit is located in a building with an attached, private garage. (Notice PIH 2022-01)

Extensions of Time to Cure Inspection Violations

Reasonable extensions to the time limitations for compliance established in this section may be granted by the PHA in extenuating circumstances. Requests for such extensions must be submitted in writing prior

to the re-inspection compliance date and supported by documentation. Examples of extenuating circumstances may include but are not limited to the following:

1. Inclement weather;
2. Verification of unavailability of necessary parts; or
3. Emergency situations such as a natural disaster.

In the event that the violation(s) is/are caused by a natural disaster, extensions to the compliance Inspection date may be granted. In order to approve such an extension, the PHA may request evidence of insurance claims, estimates for repair or other related documents.

PART II – Rent Reasonableness

The PHA will determine the rent based on the best rental survey data that is available. The PHA reserves the right to request and obtain information on the rents being charged by the owner for unassisted units in the premises or elsewhere.

If the compiled rental survey data does not a have a comparable unit by location, quality, size, unit type or age, then the next best comparable unit from the compiled rental survey data may be used to support the approved rent.

9.5 Rent Reasonableness

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.

Owner-Initiated Rent Reasonableness 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 will assist the family in 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 NSPIRE/HQS inspection have been corrected.

For rent increase requests after the initial lease-up, PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units.

PHA/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 5 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.

In addition to the instances described above, PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) PHA determines that the initial rent reasonableness determination was in error or (2) PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

9.6 Establishing Comparability

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 rents of comparison units when the units are not identical to the assisted unit.

- Location and age;
- Unit size including the number of rooms and square footage of rooms;
- The type of unit including construction type (i.e., single family, duplex, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance, and improvements made;
- Amenities, services, parking spaces, and utilities included in the rent.

Units that must not be used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Note: Notice PIH 2010-18 issued May 10, 2010, provides further guidance on the issue of what constitutes an assisted unit.

Rents charged for other units in 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 4 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.

PHA Rent Reasonableness Methodology

HUD requires PHAs to take into consideration the factors listed below when determining rent

How Market Data is Collected

PHA may maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, rental market websites, inquires of owners and other available sources. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries.

How Rents are Determined

The rent for a unit proposed for assistance will be compared to the rent charged for comparable units in the same market area. Because units may be similar, but not exactly like the unit proposed for assistance, the PHA may make adjustments to the range of prices to account for these differences.

The adjustment shall reflect the local market. Not all differences in units require adjustments.

Rent reasonableness re-determinations

The SAFMR Final Rule makes changes to rent reasonableness requirements that apply to PHA administering the HCV program, regardless of whether the PHA operates in an area where SAFMRs have been adopted.

PHA is required to re-determine rent reasonableness in three scenarios:

- Before any increase in rent to owner
- When the applicable FMR decreases by 10 percent (under the SAFMR Final Rule, an FMR will never decrease by more than 10 percent from the previous year's FMR)
- If directed by HUD Outside of these scenarios, PHA may choose to re-determine rent reasonableness at any other time.

(Notice PIH 2018-01, (4)(b))

All units assisted under the HCV program must meet rent reasonableness standards as determined by the PHA.

Chapter 10 – Leasing Policies / HAP Contracts

In order for a PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Program (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the National Standards for the Physical Inspection of Real Estate (NSPIRE) and the Housing Quality Standards (HQS) as governed by federal regulations and described in this Plan [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]
- Applicable only to families who first enter into the federal HCV Program and lease their first unit with a HCV voucher: 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)]

10.1 Tenant Screening

The PHA only screens applicant families for program eligibility. The PHA does not screen applicants for family behavior or suitability for tenancy and 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 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 responsibility to comply with VAWA [24 CFR 5.2007(3)(ii)].

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 information about the family's tenancy history or other family information in its possession [24 CFR 982.307(b)(2)] as such the PHA will not provide additional screening information to the owner.

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

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

10.2 Request for Tenancy Approval (RTA)

After the family is issued a voucher, the family must locate an eligible unit and submit both the HUD Request for Tenancy Approval Form (HUD-52517), also referred to as a "RTA", and the proposed lease no later than the expiration date stated on the voucher. The family may not submit, and PHA will not process, more than one (1) RTA at a time.

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 PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit the following documents to 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
- W-9 Form completed by the Owner.
- Documents required by the PHA to approve the owner as set forth under Chapter 15 of this Plan.

The RTA contains important information about the rental unit selected by the family necessary for PHA to determine whether to approve the assisted tenancy in the unit, including:

- Unit address
- Number of bedrooms
- Structure type
- Year constructed
- Utilities included in the rent
- Requested beginning date of the lease.

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The Owner must make the following certifications set forth in the RTA:

- Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the price 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 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 signed by both the family and the owner. The owner may submit the RTA, lease, and HUD-prescribed Tenancy Addendum on behalf of the family.

The completed RTA, required lease, and documents must be submitted as hard copies, in-person, by mail, fax or as an email attachment.

10.3 PHA Review of Request for Tenancy

The RTA will first be reviewed for completeness before review of the unit's acceptability under the HCV Program. 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.

The PHA will not accept missing information over the phone. Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, fax or as an attachment to an email.

When the family submits the RTA and proposed lease, the PHA will also review the terms of the RTA for consistency with the terms of the proposed lease. If the terms of the RTA are not consistent with the terms of the proposed lease, the PHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, fax or as an attachment to an email. The PHA will not accept corrections by phone.

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 can't be reached by phone, fax or email.

The time in which to provide missing information or provide corrected documents shall be no more than 10 business days from the date of notice. If documentation is not provided within this time frame, the assistance will be denied/ terminated.

10.4 Owner Participation

PHAs do not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program.

10.5 Eligible and Ineligible Units in General

Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction, including the dwelling unit they currently occupy. However, there are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program.

Ineligible Units

[24 CFR 982.352(a)]
The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units

[24 CFR 982.352(b)]
Otherwise eligible units that are owned or substantially controlled by the PHA issuing the Voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA. The PHA must also comply with additional requirements set forth under 24 CFR 982.352(b).

Special Housing Types

[24 CFR 982 Subpart M]
HUD regulations permit, but do not generally require, PHAs 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.

The PHA shall allow for special housing types as set forth in 24 CFR Part 982 and shall follow the regulations set forth under s. 982.601 through s. 982.64.

Per federal regulation, the PHA permits 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 must 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.

10.6 Basic Criteria for Unit Eligibility

In order to be eligible, the dwelling unit must,

- Be in a decent, safe and sanitary condition
- Be the appropriate size for the number of people in the household.
- Have a reasonable rent; and
- If a family is initially leasing a unit where the gross rent exceeds the family's payment standard, the rent must be at a level where the family's share of rent does not exceed 40 percent of the household's monthly adjusted 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 for the unit equals the family share.

10.7 Lease and Tenancy Addendum

The family and the owner must execute and enter into a written dwelling lease for the assisted unit, which must include HUD-required language set forth in the HUD Tenancy Addendum. 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:

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. The PHA requires that if the owner does not use a standard lease form for rental to unassisted tenants, the owner must still use a standard lease form for assisted tenants. The PHA will not provide a model or standard dwelling lease for owners to use in the HCV program.

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 is in such standard form.

The PHA does not provide a model or standard dwelling lease for owners to use in the HCV or Mod-Rehab programs.

Tenancy Addendum:

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease**.**

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 provision 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

Initial Term of Lease

The initial term of the assisted dwelling lease must be for one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract. The PHA *may* approve a shorter initial lease term if the PHA determines that: (i) Such shorter term would improve housing opportunities for the tenant; and (ii) Such shorter term is the prevailing local market practice.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309]. The PHA will not approve an initial lease term of less than one (1) year.

Concurrent Term of Lease and HAP Contract

The lease term runs concurrently with the HAP contract term. If the lease terminates, the HAP contract terminates. Whenever the owner elects to execute a new lease, a new HAP contract is also required.

Renewal of Lease

The lease must provide provisions for its renewal.

Term of New Lease or Contract for New Unit Commencing Same Month Due to Participant Move

The term of a new lease or contract for a new unit may begin in the same month in which the HCV participant moves out of his/her previously-assisted unit.

Consolidated Annual Contribution Contract (ACC) Term and Lease Terms

A PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC [24 CFR 982.309(b)].

Security Deposit

The owner may collect a security deposit from the tenant in an amount not in excess of amounts charged in the private market practice and not in excess of amounts charged by the owner to unassisted tenants. When the tenant moves out of the dwelling unit, and subject to Florida law governing the rights and obligations of landlords and tenants, the owner may use the security deposit, including interest on the deposit, as reimbursement for any unpaid rent payable by the tenant for damages to the unit or for other amounts the tenant owes under the lease.

Following the notice requirements imposed upon landlords under state law, the owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

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 Review of Lease

The PHA must review the dwelling lease for compliance with all applicable HCV Program requirements.

If the 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, fax or as an attachment by email. The PHA will not accept missing and corrected information over the phone.

Because the initial leasing process if time-sensitive, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties can't be reached by phone, fax or email.

PHA will **not** review the owner's lease for compliance with state/local law**.** However, if it is determined prior to approval of the HAP contract that the lease does not comply with State/local law, then PHA will not approve the tenancy.

10.8 Tenancy Approval

After receiving the family's Request for Tenancy Approval (RTA), with the 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 have been completed. These actions include ensuring that the unit is eligible, the unit has been inspected by the PHA and meets the National Standards for the Physical Inspection of Real Estate (NSPIRE) and the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit 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 conflict 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)].

The PHA will complete its determination within 15 days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with PHA, the PHA will require corrected copies of the RTA and proposed lease; signed by the family and the owner.

Corrections to the RTA/proposed lease will be accepted as hard copies, in-person, by mail, fax or attachment by email. The PHA will not accept corrections over the phone.

If the PHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reason for disapproval. The PHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Denial Due to Unit Ineligibility other than Rental Affordability

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.

Denial Due to Unit Ineligibility because of Rental Affordability

If the tenancy is not approvable due to rent affordability (including rent burden and 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.

10.9 HAP Contract Execution

The HAP contract is a written agreement between the PHA and the owner of the dwelling and occupied by an assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements [24 CFR 982.305]. The HAP contract format is prescribed by HUD (HUD Form 52641).

Upon the PHA's approval for the family of assisted tenancy, the owner and 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 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 days from the beginning of the lease term.

PHAs 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 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 term 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.

Upon the owner and the assisted family's execution of the dwelling lease, the owner must provide a copy to the PHA. The owner and 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 mail the owner a copy of the executed HAP contract to the owner's address listed on the HAP contract.

10.10Increases and Changes in Lease Terms

Rent Increases

No rent increase is permitted during the initial term of the lease.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. The owner must issue a 60-day notice to the tenant of the intent to increase the rent. A copy of the rent increase notice must accompany a rent increase request to the PHA.

The PHA will not consider the request unless the subject unit is in compliance with NSPIRE/HQS as determined by an inspection conducted and passed within the twelve months of the proposed effective date of the increase. 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 set forth in this Plan. Further, the PHA may request the owner to provide information about rents charged for other units on the premises, if the premises include more than 4 units. The PHA will consider unit size and length of tenancy in the other units. The owner may submit information about other comparable units in the market area when making a rent increase request. The PHA will confirm the accuracy of the information provided by the owner if timely submitted. If the information submitted is accurate, the PHA will consider this additional information along with its own comparability data to make a final rent determination.

The PHA will determine whether the requested increase is reasonable within 15 days of receiving a complete request from the owner. The owner will be notified of the determination in writing. All rent adjustments will be effective the first of the month following the 60 days after the PHA's receipt of the owner's complete request or on the date specified by the owner, whichever is later.

If the requested rent is <u>not</u> found to be reasonable, the owner must either reduce the requested rent increase and re-submit a rent request to the PHA for approval, or give the family notice that rent will remain in accordance with the existing terms of the lease.

Other Changes to the Lease

If the tenant and the owner agree to any other changes to 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, voucher assistance in the unit shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease;
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

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Chapter 11 – Recertifications

The PHA is required to recertify each family income and composition at least annually, and to adjust the family's level of assistance accordingly. This chapter discusses both annual and interim recertifications, and the recalculation of family share and subsidy that occurs as a result.

- Recertification means: Determining that a participant continues to be eligible for the program.
- Matching recertification date with the lease term:
  - Re-evaluation of family income and annual housing inspection are coordinated to take place at the same time once a year to minimize disruption to the client and to the program.
  - Lease terms will be timed with this recertification.

Annual Recertification [24 CFR 982.516]

The PHA must conduct a recertification of family income and composition at least annually. Based on the updated information, the family share of the rent shall be recalculated.

11.1 Client Notification of Recertification Appointment

The PHA commences the annual recertification of income and family composition process 90 days before the client's recertification date.

Notification of Recertification

The PHA shall notify the client of the pending recertification at least 90 days in advance of the scheduled annual recertification date. At that time, the PHA shall give the client a recertification interview appointment. If the client has a conflict with the scheduled appointment time, he/she may notify the PHA and reschedule it. Families are required to participate in an annual recertification interview. However, if participation in an in-person interview poses a hardship because of a family member's disability, the family shall contact the PHA to request a reasonable accommodation.

Notification of annual recertification will be sent by first-class mail, unless other arrangement are made in advance with the client, and will contain the deadline for submission of required documents. The PHA will mail to the assisted address only and it is the responsibility of the family to assure that mail can be delivered to the assisted unit. Instructions for completion of the documents will be provided in the recertification packet.

If the family is unable to provide required documents by the deadline, the family should contact the PHA in advance of the deadline to request an extension. If a family fails to submit the required documents by the deadline, PHA will send a second request for submission of recertification documents, and a new deadline.

If the family fails to submit the required documents after two PHA requests, without PHA approval or extension, or if the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family's address of record, and to any alternate address provided in the family's file.

11.2 Conducting Annual Recertification

Families shall provide all required information (as described in the recertification notice) to the PHA no later than the deadline. The required information will include the recertification form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required information that the family is unable or fails to provide must be provided within 15 days of PHA's review of documents and written request to the family for missing or additional documents. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension of 15 days.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

Unless an internal file audit indicates missing documents, the family reports a change or the PHA suspects a change has occurred in information that are verified at admission, certain types of information verified at admission generally do not need to be re-verified at recertification. Such information includes:

- 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 National Standards for the Physical Inspection of Real Estate (NSPIRE) and the Housing Quality Standards (HQS), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11.3 Client Notification of Annual Inspection

Housing inspections and paperwork required of third parties (landlords) can take time. To ensure that clients are recertified as required under federal regulations, the Housing Inspection Unit should commence the annual NSPIRE/HQS inspection process 120 days from the re-certification deadline. Program participants are obligated to cooperate with the NSPIRE/HQS inspection process as a condition of continued housing assistance.

11.4 Requests to Move during Recertification Period

In the event that a participant intends to look for another unit, the client is required to submit a written request to move ("Request to Move") at least 90 days prior to the annual recertification date and such request must be approved by the PHA.

Families are prohibited from moving during the initial twelve months of their lease for the assisted unit. Thereafter, families are limited to one move during any twelve-month period. A request to move shall only be approved by the PHA under the following circumstances:

- The lease has been terminated because the PHA has terminated the HAP contract due to the owner's breach or by mutual agreement of the owner and tenant; or
- The family has received a notice to vacate the premises or the owner has secured court authority to evict the family; or
- The family has given the owner notice of lease termination if such right is afforded under the lease (the family must send notice to the PHA at the same time); or
- The PHA may deny permission to move if:
  - The family has violated a family obligation;
  - The family owes the PHA money; or
  - The family owes the landlord money.

Exceptions to Move Policy

The PHA may grant an exception to these restrictions in an emergency situation or if the family meets a special circumstances and at the sole discretion of the PHA. The PHA may also grant an exception if the family becomes overcrowded, as defined by HUD's NSPIRE/HQS standards, or if the apartment has two consecutive NSPIRE/HQS failures attributed to the responsibility of the landlord.

The PHA's Housing Specialist shall review the housing search and move-in procedures with the client during the Recertification appointment.

The authorized Request to Move Form shall be mailed to the client, with copy for the file, noting that the client's 60-day housing search period commences on the date of the Request to Move Approval Date. The approved Request shall also incorporate a reminder of the client's obligations under the program rules and the terms of the lease to: (i) not abandon the unit while the lease is in effect; (ii) continue to make monthly rent payments as required under the lease addendum; and (iii) provide the landlord with notice of the client's intent to vacate the unit upon expiration of the lease at least 30 days in advance or earlier as may be required under the lease.

11.5 Missed Recertification Appointment / Attempts to Contact Client

If no response from the client is received within 15 days of the initial written notice of pending recertification and appointment and fails to attend the recertification appointment, the PHA shall be required to conduct a diligent search for the client. The steps to take are as follows:

1. After the day of the missed appointment, the Housing Specialist shall send the client a certified letter noting the client's failure to attend the appointment or reschedule the appointment; setting a new appointment 15 days from the date of the letter and providing notice that assistance will be subject to termination if the client fails to meet with the Housing Specialist.
2. During the next 15 days, the following documented attempts at contact are to be made until contact is accomplished or methods of attempted contact below are exhausted:
   a. Two phone contact attempts
   b. The PHA or its designee shall conduct a home visit.
3. Upon exhaustion of the 15-day period without successful contact with the participant, the PHA will send a second written notice of pending recertification and appointment.
4. If the participant fails to appear at the appointment or contact the PHA within 15 days of the second notice, the PHA will initiate termination of assistance.
5. All communications and/or attempted communications, written or oral, will be documented in the participant's file.

Effective Dates

The client's recertification completion date shall be the first day of the month in which recertification was DUE TO BE completed by the Housing Specialist. The next recertification must take place within twelve months of that date [24 CFR 982.516]. ANY CHANGES RESULTING FROM THE RECERTIFICATION PROCESS WILL BE APPLIED RETROACTIVELY TO THE RECERTIFICATION'S EFFECTIVE DATE.

Interim Recertification [24 CFR 982.516]

11.6 Interim Recertification Policies

In addition to regular annual reporting requirements, families are required to report certain changes in income and/or household composition which may require interim recertification and other action as set forth under this Plan. 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 recertifications to reflect those changes.

HUD regulations also allow the PHA to conduct interim recertification of income or family composition at any time. When an interim recertification is conducted, only those factors that have changed are verified and adjusted.

Families may also request an interim determination due to change(s) in income or family composition since the last determination. However, a participant family's failure to comply with mandatory interim reporting requirements under this Plan is cause for termination.

11.7 Changes in Family Composition

Program participants are required to report all changes in household composition between regular re-certifications. This includes additions due to birth, adoption or court-awarded custody or a family member moving out of the unit.

The addition of a family member as a result of birth, adoption or court-ordered custody of a child does not require PHA approval; however, the family must report the addition of such child within 15 days of the addition [24 CFR 982.551(h)(2)].

In all other cases, the household must request the PHA's approval to add or remove a family member, live-in aide, foster child or foster adult. Requests must be made in writing by the head of household and approved prior to the individual moving in or being removed from the household.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria and the assisted household is in good standing under the program (meaning there is no administrative action pending against the family to terminate the subsidy).

The PHA will not approve the addition of a foster child or a foster adult if it will cause a violation of NSPIRE/HQS space standards.

When the PHA approves the addition of a household member, the PHA will conduct a recertification to make appropriate adjustments in the family share of the rent and the HAP payment.

If the PHA determines that an individual does not meet the PHA's eligibility criteria as set forth in this Plan, it will notify the family in writing of its decision and the reasons for the denial. However, the family does not have a right for an informal hearing if the PHA does not approve the addition of a family member.

Removals from the Family

If a family member ceases to reside in the unit, the family must inform the PHA within 15 days of the event. This requirement also applies whenever a family member who was considered to be temporarily absent is now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the PHA within 15 days.

11.8 Changes in Family Income

PHA-Initiated Interim Recertifications

These recertifications are scheduled by the PHA based on certain criteria. The PHA will conduct interim examinations in each of the following occurrences:

- If at the time of annual recertification it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal income), the PHA *may* schedule an interim recertification to coincide with the end of the period for which it is feasible to project income.
- At any time in order to correct and error in a previous examinations, to investigate a tenant fraud complaint, or for quality control.

Family-Initiated Interim Recertifications

HUD regulations give the PHA the ability to determine the circumstances under which families will be required to report changes affecting income.

As such, all interim changes in family income or household composition must be reported to the PHA within 15 days of the occurrence. The PHA must conduct an interim recertification when the family reports reduction of income or zero income.

Effective Dates

Changes in rent for interim recertification will become effective as follows:

- Decrease in participant payment will be effective the first of the month following the month in which the change was reported, for example if a change was processed during the month of October the effective date would be November 1st.
- Increase in participant payment will become effective the first of the month after a full 30-day written notice, for example if a change was processed during the month of October the effective date would be December 1st.

Income Changes Resulting from Welfare Program Requirements

Rent will not be adjusted as a result of a family's income decreasing because of a reduction in Temporary Assistance to Needy Families (TANF) due to sanctioning by the state's welfare agency because of fraud, failure to participate in an economic self-sufficiency program, or noncompliance with a work activities requirement. The family is entitled to a hearing, should it wish to appeal such decision by the PHA not to reduce the participant's portion of the rent.

Reasonable Accommodation during Recertification or Interim Recertification

- ***Face-to-face Appointments***

  The client who is mobile and able to travel shall be requested to meet at the PHA in order to conduct the recertification appointment.

- ***Homebound Clients***

  The client who is homebound shall be scheduled for an in-home recertification or interim appointment.

  Definition of a Homebound Client:

  The client is defined as homebound if there is a physical and/or mental incapacity which prevents the client from reporting to the PHA for an appointment to apply for or maintain assistance. Homebound status may be temporary or permanent. Lack of personal transportation is not cause for in-home recertification. Homebound status shall be confirmed by a medical provider, home care, or homemaking agency, which shall be documented in the Housing Specialist's case notes. If the client contacts the PHA provider to reschedule the appointment due to an illness, temporary or permanent, medical confirmation is not needed.

Recalculating Family Share & Subsidy Amount

Once the family submits all the pertinent information required for an annual or interim recertification, the PHA must recalculate the family share of rent and the subsidy amount, and notify the family and owner of the changes.

11.9 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. The notice must include the following information: (1) The amount and effective date of the new HAP payment; (2) The amount and effective date of the new family share of the rent; (3) The amount and effective date of the new tenant rent to owner.

The family must be given the 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 HAP payment.

Discrepancies

During an annual or interim recertification, 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, correction will be made in accordance with this plan.

Chapter 12 - Portability

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 Public Housing Authority which administers a tenant-based voucher program.

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 first PHA is called the initial PHA. The second 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 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 out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the policies under "Port-Out" when it is acting as the initial PHA for a family. It will follow the policies under "Port-In" when it is acting as the receiving PHA for a family.

12.1 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. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA.

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside PHA's jurisdiction under portability. However, an applicant family may only lease a unit in a particular area under portability if the family is income eligible for admission to the HCV program in that area. The initial PHA, in accordance with its own policies and HUD regulations, determines whether a family qualifies.

Mod-Rehab Program assistance is not portable as the assistance is attached to the unit.

Small Area Fair Market Rent (SAFMR) and Portability Implications
The vouchers of families who port in will be administered according to the policies of this Administrative Plan. The City of Miami is operating under SAFMRs, therefore, the family's voucher will be administered using SAFMRs (Notice PIH 2018-01 (5)(c)(iv))

Reasonable Accommodation

When a request to move is due to a disability of a family member, even if a family might otherwise be restricted from moving (e.g., under a "one move per year" policy or because of insufficient funding), PHAs must consider requests for reasonable accommodations in accordance with HUD's regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130, including reasonable accommodations relating to moves, that are necessary for a qualified individual with a disability to benefit from the program. In cases where the limitation on portability is a discretionary policy of the PHA, the PHA must grant the accommodation unless doing so would impose an undue financial and administrative burden. In cases where the limitation on portability is compelled by regulation, the PHA must first assess whether the requested accommodation would impose an undue financial and administrative burden. If the answer to this question is "no," the PHA must forward the request to its HUD Office of Public Housing (OPH) for its local area jurisdiction so the relevant regulatory provision can be waived by the Assistant Secretary.

Grounds for Denying Family Requests to Move

- **Applicant Family Residency Requirement**
  A family that has not leased a unit under the HCV Program is eligible for portability if the head of household or spouse was a resident in the initial PHA's jurisdiction at the time the application for assistance was submitted.

  If neither the head of household nor spouse/co-head of an applicant had a domicile (legal residence) in the initial PHA's jurisdiction at the time the application for assistance was submitted, the family must live in the PHA's jurisdiction with voucher assistance for the initial lease term of twelve months before requesting portability.

  Exception to Applicant Family Residency Policy
  The PHA will consider exceptions to this policy for purposes of reasonable accommodation or compliance with the Violence Against Women Reauthorization Act of 2013 (VAWA). Any exception to this policy is also subject to the approval of the receiving PHA.

- **Participant Families - Lease Violation**
  In accordance with HUD regulations, the initial PHA will not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease.

  The initial PHA will make an exception allowing the family portable assistance if the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit, and has otherwise complied with all other obligations under the HCV Program. See VAWA policy under Chapter 17.

- **Family Action or Failure to Act**
  The initial PHA may deny a portability move if there are grounds for the denial because of an applicant or participant family's action or failure to act as described in 24 CFR 982.552 or 982.553.

Denying Family Requests to Move Due to Insufficient Funding

The initial PHA may deny a request to move if it demonstrates that it does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

A PHA may only deny a request to move to a higher cost unit within an initial jurisdiction or a higher cost area as may be the case in another PHA jurisdiction in accordance with 24 CFR 982.314(e)(1) if the PHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

- A PHA **may not** deny a requested move due to insufficient funding under 24 CFR 982.314(e)(1) simply because the family wishes to move to a higher cost unit within the initial jurisdiction or to a higher cost area.
- A PHA **may not** deny requests for a portability move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g. the receiving PHA issues a 2- bedroom voucher to a family that received a 3-bedroom voucher from the initial PHA).
- A PHA may not deny a family's request to move to a higher cost unit or a higher cost area because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available (UMA) to do so.

Definitions

For moves within the initial PHA's jurisdiction, a "higher cost unit" is defined as a unit in which the PHA would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

For portability moves, a "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA).

Notice to HUD of Determination of Denial

The PHA must provide written notification to the local HUD Office when they determine it is necessary to deny moves to a higher cost unit within its jurisdiction or a higher cost area based on insufficient funding. The notification must include the following documentation:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.
2. A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit or higher cost area is in place.
3. A copy of the PHA's policy stating how the PHA will address families who have been denied moves. The requirements of the policy are described below.

Process of Reviewing Portability Request Under Moratorium Due to Insufficient Funding

1. Before denying the family's request to move due to insufficient funding, the initial PHA must contact the receiving PHA and confirm via email whether the receiving PHA will administer or absorb the family's voucher. Once the receiving PHA makes the commitment to absorb the voucher, they cannot reverse their decision.
2. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move under 24 CFR 982.314(e)(1).
3. The initial PHA may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount and therefore in no increased cost to the initial PHA.

Post-Approval of Portability Move

If a PHA approves a family's request to move and then subsequently experiences a funding shortfall, the PHA may only retract the voucher if the family would be allowed to remain in their current unit. If the family cannot remain in the unit, (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) the PHA must not retract the voucher. This requirement applies to moves both within the PHA's jurisdiction and to portability moves.

An initial PHA may not terminate a portability voucher under a billing arrangement with a receiving PHA for insufficient funding since the initial PHA is not a party to the HAP contract.

Determining Insufficient Funding

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, the PHA may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program. However, a PHA may not include projected costs for vouchers that have been issued to families from the waiting list but not yet leased as part of this analysis. Vouchers that have been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments.

HUD has posted a spreadsheet on the HUD Housing Choice Voucher Program website that may be used by a PHA to determine if sufficient funding is available to support to a move. The address is: http://www.hud.gov/offices/pih/programs/hcv. This spreadsheet is an example of one method of determining if sufficient funding is available and a PHA is not required to use it when making its determination to deny a move under 24 CFR 982.314(e)(1).

However, in any case where the PHAs denies a family's request to move in accordance with 24 CFR 982.314(e)(1), the PHA must be able to demonstrate how it determined that sufficient funding was unavailable when the PHA denied the family's request to move.

Notice to and Treatment of Families Denied Moves Due to Insufficient Funding

- HUD Notice and Policy Requirements:

The PHA must establish policies in its Administrative Plan which state how the agency will address families who have requested a move and were denied due to lack of funding once the PHA has determined funds are available for those moves. At a minimum, the PHA policy must address:

1. How the PHA will inform families of the PHA's local policy regarding moves denied due to lack of funding; i.e., information contained in briefing packets or in a letter to the tenant at the time the move is denied.
2. How long the family's request to move will be open for consideration and how the PHA will notify families with open requests when funds become available.

- Initial PHA Policy

If the initial PHA denies a family's request to move, it may not subsequently admit any additional families to its HCV Program until the PHA has followed the policy as described below:

1. If the initial PHA denies a family's request to move due to insufficient funds, it will inform the family in writing that the denial is temporary until funds become available and the PHA will not subsequently admit any additional families to the HCV Program before it assists the family seeking to move. The PHA will inform the family in writing when it determines that there is sufficient funding to approve the move. If the family, in writing, expresses interest in pursuing the request to move by the deadline provided in the PHA's notification letter, the PHA will promptly process the request in accordance with this Plan.
2. Families whose requests for moves have been denied for insufficient funding shall be notified in the order of the date of their request to move, from those dated earliest contacted first.

Penalties for PHAs that improperly deny requests to move on the basis of insufficient funding

In general, if HUD determines that a PHA did not follow the policies established in the PIH 2012-48 (HA), as may be amended or superseded, and has improperly denied a family's request to move due to insufficient funding (e.g., sufficient funding was in fact available at the time of the family request to support the move; PHA failed to comply with request for additional information to support the insufficient funding from the Field Office), HUD may impose a sanction on the PHA, which may include a reduction in the PHA's administrative fee[3] of up to 10 percent for the two quarters following the quarter that HUD identified the improper denial, taking into consideration the circumstances of the particular case.

This general policy for improperly denying the family's request to move under 24 CFR 982.314(e)(1) does not in any way restrict HUD from exercising additional remedial actions or imposing sanctions in the event the PHA is denying requests by families to move under portability in violation of program requirements, including fair housing and civil rights requirements.

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[3] *The reduction would be applied to PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during the two quarters the penalty is imposed by HUD).*

12.2 Income Determinations

- **Participant Family**
  A participant family must specify the area to which the family wishes to move. The family is not subject to an income eligibility determination specific to the income limits for the new jurisdiction to which the participant family moves under portability (i.e. income eligibility is not re-determined when a participant family exercising portability).

  A new recertification of family income and composition by the initiating PHA is not required for a participant family approved to move out of its jurisdiction under portability. However, for a participant family approved to move out of its jurisdiction under portability, the initiating PHA generally **[will]** conduct a recertification of family income and composition if the family's annual recertification is due on or before the initial billing deadline as specified on form HUD-52665, Family Portability Information.

- **Applicant Families**
  An applicant family must specify the area to which the family wishes to move. However, an applicant family may only lease a unit in a particular area under portability if the family is income eligible for admission to the HCV program in that area.

  The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move. 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.

Briefing

All applicant families requesting portability are provided information on portability at time of the PHA's HCV Program briefing prior to voucher issuance as set forth in this Plan. Therefore, no special briefing is required for these families.

A formal briefing is not 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.

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 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. In issuing vouchers to applicant families, the PHA will follow the policies set forth in this Plan.

For all families approved to move under portability, the PHA will issue a new voucher within 15 days of receipt of all necessary documents by the family. The initial term of the voucher will be of 60 days.

Voucher Extensions and Expiration

The PHA will not approve extensions to a voucher issued to an applicant or participant family porting out of PHA's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA. In such cases, the policies on voucher extensions set forth in this Plan will apply;
- The family decides to return to the PHA's jurisdiction and search for a unit; or
- The family decides to search for a unit in a third PHA's jurisdiction.

In all cases, the family must apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the PHA's voucher term (including any extensions).

12.3 Initial Contact with 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. This means that the initial PHA must contact the receiving PHA directly on the family's behalf. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA.

Because the portability process is time-sensitive, the PHA will notify the receiving PHA by e-mail to expect the family. The PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

12.4 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;
- A copy of the family's voucher;
- 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; and
- Copies of the income verifications backing up the form HUD-50058 or such other similar format in the case of an applicant family.
- 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 family members age 6 and over
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- A copy of the family's current EIV data

Initial Billing Deadline

Under HUD portability rules, the initial PHA must specify in Part I of form HUD-52665 the deadline by which it must receive the initial billing notice from the receiving PHA. This HUD deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA.

However, such rules also require that the receiving PHA must submit its initial billing notice (Part II of form HUD-52665):

a. no later than 10 days following the date the receiving PHA executes a HAP contract on behalf of the family by mail **and**

b. in time that the notice will be received no later than 60 days following the expiration date of the family's voucher issued by the initial PHA.

If the receiving PHA fails to send the initial billing notice within 10 days following the date the HAP contract is executed (or the initial PHA does not receive it within 60 days after the initial voucher expires, 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). by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family.

If [the initial billing notice is sent later than 10 days from the date of the execution of the HAP contract although received by the billing deadline specified on form HUD-52665 and/or] the initial PHA has not received an initial billing notice from the receiving PHA by the billing deadline, it will contact the receiving PHA by e-mail on the next business day and inform it that it will not honor the 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 initial 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 by the Initial PHA

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 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 PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA is unable and unwilling to accept payment by such means. In such case, the receiving PHA shall instruct the PHA as to method of payment.

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. The PHA may only terminate HAP contracts to which they are a party as a result of insufficient funding in accordance with 24 CFR 982.454.

Subsequent Family Moves

- **Subsequent Moves Within the Receiving PHA's Jurisdiction**
  The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance. If the initial PHA determines that it must deny moves on the grounds that it lacks sufficient funding, it will notify all receiving PHAs with which it has entered into portability billing arrangements that they too must deny moves to higher cost units by portable families from the initial PHA's jurisdiction. The initial PHA will make exceptions to this policy for purposes of reasonable accommodation on the basis of disability and for families eligible under the VAWA.

- **Moves Outside the Receiving PHA's Jurisdiction**
  If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending Form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial voucher necessary to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

12.5 Denial or Termination of Assistance

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time.

Port- Ins

12.6 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.

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.

However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA, and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program.

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.

If the voucher issued to the family by the initial PHA has expired, the receiving PHA will not process the family's paperwork but will instead refer the family back to the initial PHA.

Within 15 days after a portable family requests assistance, the PHA will notify the initial PHA whether it intends to bill the initial PHA on behalf of the portable family or absorb the family into its own program.

If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program (see below).

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.

Briefing

The PHA will require the family to attend a briefing. Scheduling the briefing shall not unduly delay the family's search. The PHA will provide the family with a HCV Program briefing packet and will orally inform the family about PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Recertification at Time of Port-In

For any family moving into its jurisdiction under portability, the PHA **[will]** conduct a new recertification of family income and composition.

The receiving PHA will not delay issuing the family a voucher for this reason, nor will the PHA delay approval of a unit for the family while the recertification is being completed. The PHA may take subsequent action (e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the program due to criminal background or failing to disclose necessary information) against the family based on the results.

In the case of an applicant family, the receiving PHA may delay issuing a voucher or other delay approval of a unit only if the re-certification is necessary to determine income eligibility. For example, if the applicant family initially reported they had no earned income but they subsequently obtain new

employment, the receiving PHA may need to conduct a recertification of income to ensure the family is income eligible in the receiving jurisdiction.

In conducting its own recertification, 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 ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The PHA will update the family's information when verification has been completed.

HUD expects the receiving PHA to 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.

Voucher Term

The term of the receiving PHA's voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions

The receiving PHA 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 this Plan. Incoming portable families wishing to extend their voucher term will be referred to their initial PHA.

PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities or to assist a family eligible under the VAWA. However, the receiving PHA will first seek the cooperation of the initial PHA to extend its voucher term to allow for such accommodation.

Notifying the Initial PHA

The receiving PHA will 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. The PHA shall make such notification no later than 15 days of such occurrence, the same deadline by which the receiving PHA must submit the initial bill notice to the initial PHA. The receiving PHA will use Part II of form HUD-52665, Family Portability Information, for this purpose.

If an incoming portable family ultimately decides not to lease in the receiving PHA's jurisdiction, 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.

12.7 Administering a Portable Family's Voucher

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) (a) no later than 15 days following the date the receiving PHA executes a HAP contract on behalf of the family and (b) in time that the notice will be received no later than 60 days following the expiration date of the family's voucher issued by the initial PHA.

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 PHA, as the receiving PHA, will send its initial billing notice by e-mail to meet the billing deadline, but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 15 days following the date the HAP contract is executed, 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).

Billing Procedures

As receiving PHA, the PHA will bill the initial PHA once a month for Housing Assistance Payments. The billing cycle for other amounts, including administrative fees and special claims will be once a month.

The receiving PHA will bill 100% of the Housing Assistance Payment, 100% of special claims and 80% of the Administrative Fee (at the initial PHA's rate) for each "Portability" Voucher leased as of the first day of the month. The receiving PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the PHA of changes in the administrative fee amount to be billed within 10 days of any change in the monthly payment.

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, typically as a result of:

- A change in the HAP amount (because of a recertification, 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 circumstance may the notification be any later than 15 days following the effective date of the change in the billing amount.

If the receiving PHA fails to send Form HUD-52665 within 15 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments

The initial PHA must make the first billing payment within 30 days of receipt of Part II of the form HUD 52665 indicating the billing amount. Thereafter, the monthly payment is due by the fifth business day of the month.

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 HUD 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

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.

HUD Sanctions:

If HUD determines that the receiving PHA has not notified the initial PHA that a billing arrangement has been terminated in a timely manner and has continued to accept payments from the initial PHA, HUD may reduce administrative fees for the receiving PHA. At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2012-42 (HA) as may be amended or superseded.

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.

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 15 days after the informal review or hearing if the denial or termination is upheld.

The PHA will base its denial or termination decision on the policies set forth in this Plan. The informal review or hearing will be held in accordance with the policies in this Plan. The PHA will furnish the initial PHA with a copy of the review or hearing decision.

12.8 Absorbing a Portable Family

Absorption

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over-leasing.

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.

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 30 days' advance notice.

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.

Regular Annual Re-Certification

The receiving PHA must send to the initial PHA a copy of a portable family's updated form HUD-50058 after each regular recertification for the duration of the time the receiving PHA is billing the PHA on behalf

of the family, regardless of whether there is a change in the billing amount. The recertification and updated billing are due to the initial PHA within 10 days of the recertification effective date.

Should the initial PHA fail to receive an updated Form HUD-50058 within 30 days after the effective date of the annual recertification date, the following must occur:

1. The initial PHA must send a letter to the receiving PHA to verify the status of the family. A copy of the letter must be sent to the OPH in the HUD Area Office with jurisdiction over the initial PHA.
2. The receiving PHA must notify the initial PHA of the status of the family and provide the updated Form HUD-50058 if applicable within 30 days of the date of the letter. i.e. family is still on the program, family has been terminated, etc. If the receiving PHA has not conducted the annual recertification in a timely manner, it must notify the initial PHA.
3. The initial PHA must continue paying the receiving PHA based on the last Form HUD-50058 received.
4. If the receiving PHA fails to notify the initial PHA of the families' status or provide the updated Form HUD-50058 within 30 days following the notification, the initial PHA may request by memorandum to their OPH that HUD require the receiving PHA to absorb the vouchers in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. A copy of the memorandum must be sent to the receiving PHA. The initial PHA must continue to make the monthly payment to the receiving PHA until instructed otherwise by OPH.
5. The OPH with jurisdiction over the receiving PHA will provide the receiving PHA with 15 business days to respond and provide any supporting documentation if the receiving PHA is contesting whether the annual recertification paperwork was sent within 10 days of the effective date of the annual recertification.
6. If a determination is made by HUD through joint decision of the OPH offices that the voucher is to be absorbed by the receiving PHA, the billing arrangement on behalf of the family question ceases at the first of the following month after the date of the OPH letter (e.g., if the OPH letter is dated June 15, the billing arrangement ends July 1. The initial PHA is still responsible for any outstanding payments due to the receiving PHA.

HUD may in certain instances require the initial PHA to honor a late submission of the annual recertification documents (such as where the receiving PHA is over-leased and is in danger of not being able to stay under unit months available for the Calendar Year). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee.

Chapter 13 – Termination of Assistance

The following are the policies related to voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. These policies shall also be applicable to the Mod-Rehab Program even as they directly refer to the HCV program, unless otherwise explicitly indicated.

13.1 Grounds for Termination of Assistance

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA. The PHA requires families participating in the HCV/ Mod-Rehab programs to adhere to the Statement of Family's Obligations as stipulated in Chapter 5 of this Administrative Plan under Section 5.2 "Statement of Family Obligations".

A. Family No Longer Requires Assistance

[24 CFR 982.455]
As a family's income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive days, the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the PHA of the changed circumstances and request an interim recertification before the expiration of the 180-day period.

B. Family Chooses to Terminate Assistance

The family may request that the PHA terminate the family's assistance at any time. Such request shall be made in writing and signed by the head of household and if applicable, by the spouse or co-head. Before terminating the family's assistance, the PHA will follow the termination notice requirements as specified in this Administrative Plan.

C. Mandatory Termination of Assistance

HUD requires the PHA to terminate assistance in the following circumstances:

Eviction
[24 CFR 982.552(b)(2), Pub.L. 109-162]

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. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.
If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, 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 13.II.B and other factors as described in Sections 13.II.E.Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations include, but are not 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 is whether the reason for the eviction was through no 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 recertification.

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 the 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.

Failure to Provide Social Security Numbers

[24 CFR 5.218(c), Notice PIH 2010-3]

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 days from the date the PHA determined the family to be noncompliant.

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 days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose a SSN by the deadline.

Methamphetamine Manufacturing or Production

[24 CFR 982.553(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.

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, and is not residing with his/her parents in an HCV assisted household, the PHA must terminate the student's assistance if, at the time of recertification, 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 the 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.

D. 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

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 13.II.B and other factors described in Section 13.II.C. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity

[24 CFR 5.100]
Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

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 or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

The PHA further defines examples of violent criminal activity to include but not to be limited to: rape, murder, robbery, arson, assault, and home invasion.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 10.2.C and other factors described in Section 10.2.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance

[24 CFR 982.552(c), Pub.L. 109-162]
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. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

The PHA **will NOT** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

The PHA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Chapter 5 under Section 5.2 "Statement of Family Obligations" for a listing of family obligations and related PHA policies.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. Illegally subleasing/subletting the rental unit or any bedroom(s) shall be grounds for termination.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Mod-Rehab or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease. (This section does not include debts owed by a tenant to their previous landlord under the HCV program).
- The family has breached the terms of a repayment agreement entered into with the PHA.
- 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.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 13.3 and other factors described in Section 13.4. 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 30 consecutive days for any reason. Absence in this context means that no member of the family is residing in the unit.

Absence is defined as no family member residing in the unit for a period of more than 30 consecutive days. If the family will be absent from the unit for more than 30 days, the family shall promptly notify both the PHA and the owner in writing and obtain the PHA's approval. The PHA will require the family to document the reason for the extended absence. If the family is absent from the unit for more than 30 consecutive days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 13.II.E.

Absence from a unit may be verified by any of the following methods: National Standards for the Physical Inspection of Real Estate, Housing Quality Standards inspection, proof of utility payments, service verifications, through owner/management company verifications, through an investigation or other documentation or means.

To obtain the PHA's approval, the family must:

- Comply with the notice requirements above;
- Provide documentation acceptable to the PHA regarding the length of the absence and the reason for the absence;
- Affirm their intent to return to the unit at the end of the leave period;
- Agree to be responsible for receiving and responding to all notices sent by the PHA to the unit during the period of absence;
- Pay rent to the owner and pay for utilities while the family is absent;
- Make arrangements for PHA's inspection of the unit as necessary.

If the above procedure is not followed, the unit will be considered abandoned and termination of Housing Assistance Payments will commence. The term of the HAP Contract and the assisted lease also will terminate. The PHA reserves the right to consider special circumstances (such as absence due to hospitalization, medical emergency, etc.) as a basis to determine whether the PHA may want to allow a

resumption of assistance to the family. The family must supply any information requested by the PHA to verify the special circumstances.

In no event shall absence be for a period greater than 90 days. Absences are permitted for:

- Hospitalization;
- Commitment to short-term drug or alcohol treatment;
- Verifiable family illness or other family emergency;
- Other reasons to be determined by the PHA.

Imprisonment is not a valid reason for an absence and if imprisonment resulted from drug related or criminal activity, the participant may be terminated under the termination policy. The PHA conducts a random mailing to a sample of all program participants to verify continued occupancy.

Insufficient Funding

[24 CFR 982.454]
The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to HCV policies in place. 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.

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.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

Most recent admissions excepting elderly, disabled, or PBV will be terminated first, until the PHA's HAP savings are sufficient to ensure that the PHA does not exceed its budget authority.

13.2 Method of Termination [24 CFR 982.552(a)(3)]

When rules are violated, the PHA will proceed with termination of assistance; however, for other situations, regulations give the PHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions PHA may choose to take when it has discretion, and outlines the criteria PHA will use to make its decision about whether or not to terminate assistance.

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract;
- Refusing to approve a request for tenancy or to enter into a new HAP contract; or
- Refusing to process a request for or to provide assistance under portability procedures;

13.3 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)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon PHA's request.

Repayment of Family Debts

If a family owes amounts to PHA, as a condition of continued assistance, PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from PHA of the amount owed. Refer to policies on repayment agreements.

13.4 Criteria for Deciding to Terminate Assistance

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

The PHA will use the concept of preponderance of the evidence as the standard for making all termination decisions.

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

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

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.

The PHA will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, 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 participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

Reasonable Accommodation

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

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

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.

Terminating the Assistance of Domestic Violence, Dating Violence, or Stalking Victims and Perpetrators

[24 CFR 5.2005]
The Violence Against Women Reauthorization Act of 2005 ("VAWA") provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's

household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives PHAs the 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 evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

In determining whether a participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, 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, or stalking;
- 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.

Victim Documentation

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions, and that the actions are related to domestic violence, dating violence, or stalking, the PHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instruction on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation must include:

1. A signed form HUD-50066, Certification of domestic violence, dating violence, or stalking; OR
2. One of the following:
    - A police or court record documenting the actual or threatened abuse, or
    - A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The person signing the statement must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse, and the victim must also sign or attest to the statement.

The required certification and supporting documentation must be submitted to the PHA within 15 days after the PHA issues their written request. The 15-day deadline may be extended at the PHA's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the PHA may proceed with assistance termination.

If the PHA can demonstrate an actual and imminent threat to other participants, or those employed at, or providing service to, the property if the participant's tenancy is not terminated, the PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

[24 CFR 5.2005(c)]
Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide 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." 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 [Pub.L. 109-271].

When the actions of a participant or other family member result in a PHA decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the PHA will request that the victim submit the above required (form HUD-50066), or certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, the PHA will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, the PHA will proceed with termination of the family's assistance.

If the PHA can demonstrate an actual and imminent threat to other tenants or those employed at, or providing service to, the property if the participant's tenancy is not terminated, the PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

PHA Confidentiality Requirements

[24 CFR 5.2007(a)(1)(v)]
All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

13.5 Termination Notice [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated;
- The effective date of the termination; and
- The family's right to an informal hearing.

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

The tenant and landlord will be mailed a notice of termination of Section 8 benefits. The notice shall state the grounds for removal. It shall advise the tenant that they have 10 business days from the date of the termination notice, in which to respond and contest the action by requesting a hearing. The effective date of termination will be 30 days from the date of the termination notice. The tenant may have an advocate or attorney present at the hearing.

If the tenant does not respond within 10 business days from the date of the termination notice, s/he may be automatically removed from the program effective 30 days from the date of such termination notice. Notice of termination will be sent to the tenant and landlord simultaneously.

If a family vacates the unit without informing the PHA, the 30-day termination notice will not be applicable. In these cases, the notice to terminate will be sent at the time the PHA learns the family has vacated the unit and the termination will be effective immediately.

When a family requests to be terminated from the program they must do so in writing to PHA. PHA will then send a confirmation notice to the family and the owner within 15 calendar days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status

[24 CFR 5.514 (c) and (d)]
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 eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member 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.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a

written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

The notice to terminate will be sent to the family and the owner at least 30 days prior to the effective date of the termination.

How Termination of Assistance Affects the HAP Contract and Lease

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease.

13.6 Informal Review or Hearing

If PHA decides to deny assistance, PHA must give the applicant written notice of the denial, with reasons, and must notify the family of his or her right to an informal review (see Chapter 14 of this Plan).

If PHA decides to terminate assistance, PHA must give the participant written notice of the intent to terminate, with reasons, and must notify the family of his or her right to an informal hearing prior to the proposed date of termination in accordance with federal regulations (see Chapter 14 of this Plan).

13.7 Termination of Tenancy by the Owner

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. The PHA is not involved in this owner-tenant relationship. [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pul. L. 109-162]

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, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This 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.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; 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.

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.

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

Deciding Whether to Terminate Tenancy [24 CFR 982.310(h), 24 CFR 982.310(h)(a)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;

- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in, or been culpable for, action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA).

Effect of Tenancy Termination on the Family’s Assistance

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance. This policy is not applicable to the Mod-Rehab program.

Chapter 14 – Informal Review and Informal Hearings

When the PHA makes a decision that has negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizen issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal review procedures for participants [24 CFR 982.54(d)(12) and (13)]

Part I - Informal Review for Applicants

14.1 Informal Reviews for Applicants

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Vol.60, No. 127, p36490)

Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list (process)
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are NOT required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA.
- General policy issues or class grievances.
- A determination of the family unit size under the PHA subsidy standards.
- A PHA determination not to approve an extension or suspension of a voucher term.
- A PHA determination not to grant approval of the tenancy.
- A PHA determination that a unit selected by the applicant is not in compliance with NSPIRE/HQS.

- A PHA determination that the unit is not in accordance with NSPIRE/HQS because of the family size or composition.

14.2 Informal Review Procedures

Notice to Applicant

[24 CFR 982.554(a)]
The PHA must give an applicant for participation prompt notice of a decision to deny or terminate assistance to the applicant. The notice must contain a brief statement of the reasons for the PHA decision. The notice must also state that the applicant may request an informal review of the decision and must describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made by the applicant in writing and delivered to PHA either in person, by fax, or by first class mail, by the close of the business day, no later than 10 business days from the date of PHAs denial of assistance was postmarked.

Informal Review Procedures

[24 CFR 982.554(b)]
The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant must be given an opportunity to present written or oral objections to the PHA decision.

The person conducting the review will make a recommendation to PHA, but PHA is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision

[24 CFR 982.554(b)]
The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the PHA will evaluate the following:

- Whether the grounds for denial were stated factually in the Notice to the family;
- The validity of the grounds for denial of assistance;
- The validity of the evidence;
- If the facts prove the grounds of denial, and the denial is discretionary, PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the PHA's final decision after the informal review, including a brief statement of the reasons for the final decision. The notice will be mailed preferably within 15 days of the informal review, to the applicant and his/her representative, if any.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume. The PHA will use its discretion to best accommodate the family depending on the original grounds for denial or termination and the place in the admission process this family was in.

If the PHA proposes to deny or terminate assistance on the basis of criminal activity as shown by a criminal record, the PHA will provide the subject of the criminal record and the applicant/head of household with a copy of the criminal record along with notice of the action to deny or terminate based on the information contained in the record. The PHA will give the family an opportunity to dispute the accuracy and relevancy of the record in the informal review process.

If the family fails to participate in their informal review, the denial of admission will stand and the family will be so notified.

Part II – Informal Hearings for Participants

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decision related to the family's circumstances are in accordance with the law, HUD regulations, and PHA policies.

The PHA is not allowed to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

14.3 Informal Hearing for Participants

Decisions Subject to Informal Hearings

Circumstances for which the PHA must give a participant family an opportunity for an ***informal hearing*** are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.

- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule.
- A determination of the family unit size under the PHA subsidy standards.
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA subsidy standards, or the PHA determination to deny the family's request for an exception from the standards.
- A determination to terminate assistance for a participant family because of the family's action or failure to act (see § 982.552).
- A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.
- In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, the PHA must give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP contract.

Informal hearings are NOT required for the following reasons:

The PHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

- Discretionary administrative determinations by the PHA.
- General policy issues or class grievances.
- Establishment of the PHA schedule of utility allowances for families in the program.
- PHA determination not to approve an extension or suspension of a voucher term.
- PHA determination not to approve a unit or tenancy.
- PHA determination that an assisted unit is not in compliance with NSPIRE/HQS. (However, the PHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the NSPIRE/HQS caused by the family as described in § 982.551(c).)
- PHA determination that the unit is not in accordance with NSPIRE/HQS because of the family size.
- A determination by the PHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

14.4 Informal Hearing Procedures

Notice to Participant

[24 CFR 982.555(c)]
When the PHA makes a decision that is subject to *informal hearing* procedures, the PHA must inform the family of its right to an *informal hearing* at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and if they do not agree with the decision, they may request an *informal hearing* on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

Scheduling an Informal Hearing

[24 CFR 982.555(d)]
When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to PHA either in person, by fax, by email, or by first class mail, by the close of the business day, no later than 10 business days from the postmark date of the PHA's decision or notice to terminate assistance.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least 48 hours in advance of the scheduled meeting. At its discretion, PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not participate in the informal hearing at the scheduled time, and was unable to reschedule the informal hearing in advance due to the nature of the conflict, the family must contact the PHA within 2 business days of the scheduled hearing date. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery

[24 CFR 982.555(e)]
The family and PHA must provide to the other party copies of any documents related to the hearing no later than one week prior to the scheduled hearing date.

PHA must be given an opportunity to examine before the hearing any family documents that are directly relevant to the hearing. Whenever a participant request an informal hearing, the hearing appointment notice will automatically include a statement to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant or the participant's legal counsel must make the document available no later than 5 business days prior to the scheduled hearing date.

If the family is represented by legal counsel, PHA shall be advised of the name and contact information of said legal counsel no later than 5 business days prior to the hearing. Upon receipt of said contact information all communication related to the hearing shall be between the PHA and the family's legal counsel.

For the purpose of informal hearings, *documents* include records and regulations.

Participant's Right to Bring Counsel

[24 CFR 982.555(e)(3)]
At its own expense, the family may be represented by a lawyer or other representative at the informal hearing. When the family is represented by legal counsel, PHA reserves the right to be represented by legal counsel as well.

Informal Hearing Officer

[24 CFR 982.555(e)(4)]
Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative(s) and any witnesses for PHA
- PHA legal counsel
- The participant and any witnesses for the participant
- The participant's legal counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability.

Conduct at the Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence

[24 CFR 982.555(e)(5)]
The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- Oral evidence: Testimony of witnesses
- Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, and sounds, videotapes, or symbols or combinations thereof.
- Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- Real evidence: A tangible item relating directly to the case.

Hearsay evidence: is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either PHA or the family fail to comply with the Discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with Discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision

[24 CFR 982.555(e)(6)]
The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determination relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

The hearing officer will issue a written decision to the family and PHA. The report should contain the following information:

Hearing Information:

- Name of the Participant;
- Date, time, and place of the hearing;
- Name of the hearing officer;
- Name of the PHA representative; and
- Name of family representative, if any.

Background: A brief, impartial statement of the reason for the hearing.

Summary of Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Finding of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing that the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold PHA's decision.

Order: The hearing report will include a statement of whether PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct PHA to restore the participant's program status.

Procedures for Further Hearing

The hearing officer may ask the family or PHA for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family or PHA misses an appointment or deadline ordered by the hearing officer, the action of the hearing officer will take effect and another hearing will not be granted.

PHA Notice of Final Decision

[24 CFR 982.555(f)]
The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State, or local laws.

If the PHA determined it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

14.5 Informal Hearing and Appeal Provisions for Non-Citizens

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration statues are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA information hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance for Noncitizens

[24 CFR 5.514(d)]
The notice of termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance;
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518];
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;
- That the family has the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal;
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process

[24 CFR 5.514(e)]
When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

Informal Hearing Procedures for Noncitizen Applicants

[24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family and PHA must provide to the other party copies of any documents related to the hearing no later than one week prior to the scheduled hearing date.

PHA must be given an opportunity to examine before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the hearing appointment notice will automatically include a statement to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant or the participant's legal counsel must make the documents available no later than 5 business days prior to the scheduled hearing date.

If the family is being represented by legal counsel, the PHA shall be advised of the name and contact information of said legal counsel no later than 5 business days prior to the hearing. Upon receipt of said contact information all communication related to the hearing shall be between PHA and the family's legal counsel.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial procedures.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon both parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA will not provide a transcript of the hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing. The decision must state the basis for the decision.

Retention of Documents

[24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process.

- The application for assistance;
- The form completed by the family for income recertification;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for a USCIS appeal;
- The request for an informal hearing;
- The final informal hearing decision.

14.6 Termination of Assisted Occupancy

The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

Chapter 15 – Property Owner Participation in HCV Program

It is the policy of the PHA to recruit owners to participate in the Housing Choice Voucher program. The PHA will provide owners with prompt and professional service in order to attract an adequate supply of available housing for rent under the HCV program. Federal regulations define when the PHA must prohibit an owner from participating in the program, and when the PHA has the discretion to disapprove or otherwise restrict the participation of owners in certain categories.

Recruitment activities are described earlier in this Plan. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

15.1 Owner Responsibilities

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Compliance with all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the National Standards for the Physical Inspection of Real Estate (NSPIRE) and the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the securing deposit, the tenant's rent, and any charges for unit damage by the family
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allow reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family.

15.2 Disapproval of Owner

Owners participate in the HCV Program at will and do not have a right of participation. For purposes of this section, "owner" includes a principal, management agent or any other party acting on behalf of an owner.

The PHA will prohibit the participation of property owners for any of the following reasons:

- The owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- An administrative or judicial action has been instituted against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending investigation and/or resolution.
- A court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
- The owner has violated obligations under a housing assistance payment contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
- The owner has engaged in drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with inspection standards for units leased under the Section 8 programs or any other Federal housing program.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other Federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - Threatens the right to peaceful enjoyment of the premises by other residents;
  - Threatens the health or safety of other residents, or of owner employees or other persons engaged in management of the housing;
  - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; and/or
  - Is involved in drug-related criminal activity or violent criminal activity.
- The owner has not paid State or local real estate taxes, fines, other fees or assessments.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
- Voluntary submission of properties to the mortgage company for overdue mortgage payments, which the PHA has been paying HAP payments.
- Short sale for overdue mortgage payments, which the PHA has been paying HAP payments.
- Deed in lieu, Deed in lieu due of deficiency, and/or signing lease over to the bank, that the PHA has been paying HAP payments.

Restriction of Immediate Family Members

The PHA is prohibited from approving a Housing Assistance Contract with an owner that is the parent, child, grandparent, grandchild, sister or brother of any member of the household to be assisted. However, this provision may be waived as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the PHA will require the family and owner to certify that they are not related to each other in any way. Failure to disclose relationship will be considered fraud and grounds for termination of tenancy and prohibition of future program participation by the owner.

PHA and Other Parties

The PHA will not approve a tenancy in which any of the classes of persons listed below (24 CFR 982.161) has any interest, direct or indirect, during tenure or for one year thereafter.

1. Any present or former member or officer of the PHA (except a participant commissioner);
2. Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
3. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
4. Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause.

Owner Restrictions and Penalties

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations or has a history of city or county code violations of properties on or off the HCV program, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense.

- 1st Offense participation will be restricted for one full calendar year from the date of the PHA's notification to the landlord.
- 2nd Offense participation will be restricted for three full calendar years from the date of PHA's notification to the landlord.
- Any additional offenses participation will be restricted indefinitely.

The PHA may also terminate any additional Housing Assistance Contracts with the owner.

Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

Legal Ownership of Housing Unit

The PHA will only enter into a contract with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership.

Change in Ownership

The PHA may approve the assignment and transfer of a HAP contract to a new owner at the request of an owner of record. The change of ownership will be processed upon written request accompanied by appropriate documentation described below provided by the new owner, along with proper documentation of the sale agreement. The request and documentation must be submitted within 60 days of closing. The PHA will begin payments to the new owner once it has reviewed and approved the documents submitted.

Prior to the approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

Assignment of the HAP contract will only be approved if the new owner is qualified to become an owner under the HCV program.

PHA must receive a written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Promptly after receiving the owner's request, PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the PHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the new owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification or the social security number of the new owner;
- The effective date of the HAP contract assignment
- A written agreement to comply with the terms of the HAP contract, and

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, PHA will process the leasing in accordance with the policies in this plan.

The foreclosure provisions set forth in the HAP Contract Form as extended by PIH Notice 2011-68 and those contained in PIH Notice 2010-49 shall govern protection of HCV tenants in properties subject, or potentially subject, to foreclosure.

Non-Discrimination

The owner must not discriminate against any person because of age, race, color, religion, ancestry, national origin, sex, pregnancy, disability, marital status, familial status, or sexual orientation, in

connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance review and complaint investigation in connection with the HCV program and HAP contract with the PHA.

15.3 HAP Contract Termination

The term of the HAP Contract is consistent with the term of the lease. The HAP Contract may be terminated by the PHA or by the owner, or may terminate automatically if the tenant vacates the contract unit.

Termination of HAP Payments

The PHA must continue making HAP payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

If the family continues to occupy the unit after the HCV contract is terminated, the family is responsible for the total amount of rent due to the owner. After a contract termination, if the family meets the criteria for a program move, the family may utilize their voucher in another unit.

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451 (a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the HAP payments made under the HAP contract terminate if [HCV GB 11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease
- The lease expires
- The PHA terminates the HAP Contract
- The PHA terminates assistance for the family
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 days have elapsed since the PHA made the last housing assistance payment to the owner
- The family is absent from the unit for longer than the maximum period permitted by the PHA
- The Annual Contribution Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract
- Available program funding is not sufficient to support continued assistance [24 CFR 982.454]
- The unit does not meet NSPIRE/HQS size requirements due to change in family composition [24 CFR 982.403]

- The unit does not meet NSPIRE/HQS
- The family breaks up
- The owner breaches the HAP contract [24 CFR 982.453(b)]

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

15.4 Termination of Tenancy by the Owner

If the owner wishes to terminate the lease, the owner is required to provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the following grounds.

- Serious or repeated violations of the lease including, but not limited to, failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease; or
- Other good cause because of something the family did or failed to do.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy before the commencement of any eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant. The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit. Under this circumstance, the PHA will continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant and the tenant has vacated the assisted unit. By receipt of the housing assistance payment, the owner certifies that the tenant is still in the unit, the rent is reasonable and the owner is in compliance with the contract.

Eviction by court action will result in the termination of the voucher. Any money judgment by court action will result in the termination of the voucher.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may 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 criteria to be used are whether the reason for the eviction was through no fault of the tenant or his/her guests.

15.5 Termination of the Contract by the PHA

The HAP contract terminates:

- The owner or tenant terminates the lease.
- The lease expires.
- Automatically when the family vacates the unit regardless of cause (the owner is entitled to keep the housing assistance payment for the month in which the family moves out of the unit).
- If the PHA terminates assistance to the family.
- The PHA elects to terminate the HAP contract under the following circumstances:
  - Available funding is not sufficient to support continued assistance for families in the program.
  - The unit does not meet NSPIRE/HQS size requirements due to a change(s) in family composition.
  - The unit does not meet NSPIRE/HQS.
  - The family breaks up.
  - The owner breaches the HAP contract.
- Funding is no longer available under the ACC contract with HUD or the ACC contract expires;
- 180 days have passed since the last housing assistance payment to the owner.

A 30-day advance written notification will be provided to the owner and the tenant in accordance with the requirements of the HAP contract when action is taken by the PHA to terminate the contract.

The effective termination date will be the end of the month following the month in which the notification was provided to the owner. The owner is not entitled to any housing assistance payment received after this period.

Chapter 16 – Section 8 Moderate Rehabilitation Program

Unless otherwise overwritten by the policies in this chapter, policies related to the Mod-Rehab program will mirror HCV policies as described in this plan.

16.1 Income Targeting and Local Preferences

Income Targeting and Local preferences identified in Chapter 2 will also apply to the Mod-Rehab program.

16.2 Applying for Assistance

Please refer to Chapter 3 for opening and closing the Mod-Rehab waiting list.

The PHA is responsible for screening applicants for eligibility and the owner is responsible for screening applicants for suitability for tenancy.

PHA Referral from Waiting list

Once the project-based property owner ("Owner") notifies the PHA that a unit is vacant and such unit passes NSPIRE/HQS inspection, then and only then can such unit be offered to a waiting list applicant. The PHA shall refer applicants whose housing unit size need and preference status matches the available project-based unit in the order in which they appear on the waiting list.

If the PHA is unable to refer a sufficient number of interested applicants on the waiting list to the owner within 30 days of the Owner's notification to the PHA of a vacancy, the Owner may select a participant from its own waiting list, if available, or advertise and solicit applications from low-income families that meet the minimum criteria and refer such families to the PHA to determine eligibility.

Owner Screening and Selection of Tenant

The owner is responsible for tenant selection. The owner may refuse any family, provided that the owner does not unlawfully discriminate. However, the owner must not deny program assistance or admission to an applicant based on the fact that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission.

Should the owner reject a family, and should the family believe that the owner's rejection was the result of unlawful discrimination; the family may request the assistance of the PHA in resolving the issue. If the issue cannot be resolved promptly, the family may file a complaint with HUD, and the PHA may refer the family to the next available Mod-Rehab unit.

16.3 PHA Responsibility: Determination of Family Program Eligibility

Family Program Eligibility

The PHA is responsible for receipt and review of applications and determination of family eligibility for participation as set forth under this Plan. The PHA is responsible for verifying the sources and amount of the family's income and other information necessary for determining income eligibility, eligibility for housing assistance under other applicable federal regulations, including those governing immigration statuses, and the amount of the assistance payments. Please refer to Chapter 4 for more information on program eligibility procedures.

Grounds for Denial of Applicants/ Termination of Existing Clients due to Ineligibility

If a family is determined to be ineligible, either at the application stage or after assistance has been provided on behalf of the family, the PHA shall notify the family in writing of the determination and the reasons for it. The letter shall state that the family has the right within 10 days to request an informal hearing. If, after conducting the informal hearing, the PHA determines, based on a preponderance of the evidence that the family is ineligible, it shall notify the family in writing.

Other Grounds for Denial/ Termination of Assistance

Please refer to Chapters 4 and 13 of the Administrative Plan.

Briefing

When a family is initially determined to be eligible for housing assistance payments or is selected for participation in accordance with this section, the PHA must provide the family with information as to the tenant rent and the PHA's schedule of utility allowances. Each family must also, either in group or individual sessions, be provided with a full explanation of the following:

- Family and owner responsibilities under the lease and contract;
- Significant aspects of the applicable State and local laws;
- Significant aspects of Federal, State and local fair housing laws;
- The fact that the subsidy is tied to the unit and the family must occupy a unit rehabilitated under the program;
- The family's options under the program should the family be required to move due to an increase or decrease in family size;
- The advisability and availability of blood lead level screening for children under 6 years of age and HUD's lead-based paint requirements in 25 CFR subparts A, B, H, and R; and
- For all families to be temporarily relocated, the briefing must include a discussion of the relocation policies.

16.4 PHA Responsibility - Annual and Interim Family Recertifications

Annual Recertifications

The PHA must conduct an annual recertification for families participating in the Mod-Rehab Program. Chapter 11 of this Administrative Plan will govern the recertification process. In addition, the PHA will determine whether the unit is too small or too large based on the family composition based on changes verified during the recertification.

Change in Family's Appropriate Unit Size and Subsidy

Change in Unit Size

If the PHA determines that the family requires a smaller or larger unit, the PHA will notify the family in writing of the change in bedroom size and the right to an informal hearing to dispute the determination. Change in unit size is subject to the availability of Mod-Rehab units.

Unit Overcrowded or Under occupied

If the PHA determines that a contract unit is not decent, safe, and sanitary by reason of increase in family size, or that a contract unit is larger than appropriate for the size of the family in occupancy, housing assistance payments with respect to the unit will not be abated; however, the PHA in coordination with the owner shall offer the family a suitable alternative unit should one be available and the family will be required to move.

If the owner does not have a suitable available unit, the PHA must assist the family to move to another Mod-Rehab unit within the PHA portfolio as soon as possible [24 CFR 882.509].

In no case will a family be forced to move nor will housing assistance payments under the contract be terminated unless the family rejects without good reason the offer of a unit which the PHA judges to be acceptable. The family's TTP will be adjusted accordingly based on the new rent and bedroom size of the unit.

16.5 Lease and Lease Terms

Lease and Lease Addendum

The lease must include all provisions required by HUD, and must not include any provisions prohibited by HUD. The lease must include a lease addendum in the form proscribed by HUD (HUD Form 52517-D).

Terms of Lease

The initial lease between the family and the Owner must be for at least one year or the term of the HAP contract, whichever is shorter. In cases where there is less than one year remaining on the HAP contract,

the owner and the PHA may mutually agree to terminate the unit from the HAP contract instead of leasing the unit to an eligible family.

Any renewal or extension of the lease term for any unit must in no case extend beyond the remaining term of the HAP contract.

16.6 Security and Utility Deposits

If at the time of the initial execution of the lease the owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Total Tenant Payment or $50. However, this amount shall not exceed the maximum amount allowable under State or local law.

For units leased in place, security deposits collected prior to the execution of a contract which are in excess of this maximum amount do not have to be refunded until the family vacates the unit subject to the lease terms. The family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.

If a family vacates the unit, the owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid tenant rent or other amount which the family owes under the lease. If a family vacates the unit owing no rent or other amount under the lease consistent with State or local law or if such amount is less than the amount of the security deposit, the owner shall refund the full amount or the unused balance to the family.

16.7 National Standards for the Physical Inspection of Real Estate (NSPIRE) and Housing Quality Standards (HQS) Inspections

Annual NSPIRE/HQS and Complaint Inspections

The PHA must inspect each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the Owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

NSPIRE/HQS Standards

The PHA will apply NSPIRE/HQS policies and procedures set forth in Chapter 9 of this Plan; however, the annual inspection will be scheduled at least 90 days prior to the anniversary date of the Contract covering the assisted units. In addition, PHA will inspect assisted housing under this program to ensure that it is in accordance with the requirements in 24 CFR part 5, subpart G.

Further, a dwelling unit used in the Section 8 Mod-Rehab program that is not SRO housing must have a living room, a kitchen area, and a bathroom. Such a dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, and R of this title apply to the Section 8 Mod-Rehab program.

Corrective Action

If the PHA notifies the owner that the unit(s) under Contract are not being maintained in decent, safe and sanitary condition and the owner fails to take corrective action (including corrective action with respect to the family where the condition of the unit is the fault of the family) within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the family continues in occupancy), termination of the Contract on the affected unit(s) and assistance to the family in accordance with 24 CFR 882.514(e).

16.8 Responsibility of the Family

- A family receiving housing assistance under this Program must fulfill all of its obligations under the lease, Lease Addendum and Statement of Family Responsibility. Such responsibilities include, but are not limited to, complying with annual recertification policies and processes and NSPIRE/HQS inspections.
- No family member may engage in drug-related criminal activity or violent criminal activity (as described below). Further, grounds for terminating participants in the HCV Program as set forth in Chapter 13 of this Plan shall also apply to participants in the Mod-Rehab Program.
- The PHA will not be responsible for reviewing the owner's decision to terminate or not renew a lease with a program tenant. The PHA will review the owner's compliance with the terms of the contract governing eviction processes.
- If a family is determined to be ineligible after assistance has been provided on behalf of the family, the PHA shall promptly notify the family by letter of the determination and the reasons for it and the letter shall state that the family has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines, based on a preponderance of the evidence, that the family is ineligible, it shall notify the family in writing. The procedures of this paragraph do not preclude the family from exercising its other rights if it believes it is being discriminated against on the basis of age, race, color, religion, ancestry, national origin, sex, pregnancy, disability, marital status, familial status, or sexual orientation.

16.9 Owner's Grounds for Termination of or Refusal to Renew Lease

The following governs an owner's grounds to terminate or refuse to renew a lease and shall be incorporated into the lease with a Program tenant through the HUD-approved Lease Addendum (HUD Form 52517-D).

Grounds for Termination by Owner or Refusal to Renew the Lease

The owner must not terminate or refuse to renew the lease except upon the following grounds:

- Serious or repeated violation of the terms and conditions of the lease.
- Violation of applicable Federal, State or local law.
- Other good cause.

Drug-Related Criminal Activity or Illegal Use of Drugs

The lease must provide that the following are grounds for termination of tenancy by the owner:

Drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

When the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Violence Against Women Reauthorization Act of 2013 (VAWA)

In actions or potential actions to terminate tenancy, the owner shall comply with the requirements of VAWA in all cases where domestic violence, dating violence, sexual assault or stalking, or criminal activity directly related to domestic violence, dating violence, sexual assault or stalking is involved or claimed to be involved. Such requirements are set forth in Chapter 17 of this Plan.

Notice of Termination of Tenancy

The provisions of Chapter 13 and 14 governing grounds for termination of tenancy shall also apply to applicants for assistance under the Mod-Rehab Program.

Eviction

All evictions must be carried out through judicial process under State and local law. “Eviction” means the dispossession of the Family from the dwelling unit pursuant to State or local court action.

16.10 Owner’s Responsibilities for Maintenance and Operation and Inspections

The owner must provide all the services, maintenance and utilities as agreed to under the Contract, subject to abatement of housing assistance payments or other applicable remedies if the owner fails to meet these obligations.

Any owner may contract with any private or public entity to perform for a fee the services required by the Agreement, Contract or Lease, provided that such contract may not shift any of the owner's responsibilities or obligations.

16.11 PHA Adjustment of Utility Allowance

The PHA must determine, at least annually, whether an adjustment is required in the Utility Allowance applicable to the dwelling units in the Mod-Rehab Program, on grounds of changes in utility rates or other changes of general applicability to all units in the Mod-Rehab Program. The PHA may also establish a separate schedule of allowances for each building of 20 or more assisted units, based upon at least one year's actual utility consumption data following rehabilitation under the Program. If the PHA determines that an adjustment should be made in its Schedule of Allowances or if it establishes a separate schedule for a building which will change the allowance, the PHA must then determine the amounts of adjustments to be made in the amount of rent to be paid by affected families and the amount of housing assistance payments and must notify the owners and families accordingly.

Any adjustment to the Allowance must be implemented no later than at the Family's next recertification or at lease renewal, whichever is earlier.

16.12 Rent Adjustments

All Mod-Rehab Projects subject to this Plan are now under one-year (or less) renewal terms.

The PHA must re-determine the rent to owner upon the owner’s request or when there is a 5% or greater decrease in the published Fair Market Rents (FMRs) (FR-2001-01-18).

Renewal Rent Levels

An owner shall submit a request in writing in the form proscribed by the PHA for a rent increase 60 days prior to the anniversary date of the expiration of the HAP contract, and may include the new rent amount the owner is proposing.

The maximum rent amounts permitted are calculated per unit size as follows:

It is the lesser of:

a. The present contract rent times the current HUD Operating Cost Adjustment Factor (OCAF); or
b. Local comparable rents; or
c. 100% of the current FMRs less utility allowances

A determination of comparable rents (rent reasonableness) will be conducted pursuant to the policies and processes set forth under this Plan.

The PHA will not approve a request for rent adjustment unless the owner is in compliance with the terms of the contract, including compliance with NSPIRE/HQS requirements. The owner may not receive any retroactive increase of rent for any period of noncompliance.

The PHA will provide the owner advance written notice of any change in the amount of rent to owner.

Decrease in Rents

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Special Adjustments

As Mod-Rehab projects subject to this Plan are under one-year or less renewal terms and no longer under the initial 15-year term Contracts, the Plan does not provide for special adjustments to rents.

16.13 Reduction of Number of Units Covered by Contract

Contract Violation - Leasing to Ineligible Families

Owners must lease all assisted units under contract to eligible families. Leasing of vacant, assisted units to ineligible tenants is a violation of the contract and grounds for all available legal remedies, including suspension or debarment from HUD programs and reduction of the number of units under the contract.

Once the PHA has determined that a violation exists, the PHA must notify HUD of its determination and the suggested remedies. At the direction of HUD, the PHA must take the appropriate action.

Reduction for Failure to Lease to Eligible Families

If, at any time beginning six months after the effective date of the HAP contract, the Owner fails for a period of six continuous months to have at least 90 percent of the assisted units leased or available for leasing by eligible families (because families initially eligible have become ineligible), the PHA may, on at least 30-day notice, reduce the number of units covered by the HAP Contract. The PHA may reduce the number of units to the number of units actually leased or available for leasing by eligible families plus ten (10) percent (rounded up). If the Owner has only one unit under contract and if one year has elapsed since the date of the last housing assistance payment, the contract may be terminated with the consent of the owner.

Restoration

The PHA will agree to an amendment of the HAP contract, to provide for subsequent restoration of any reduction made to units covered under the contract if:

1. The PHA determines that the restoration is justified by demand,

2. The owner otherwise has a record of compliance with obligations under the contract, and
3. Contract authority is available.

16.14 Vacancy Payments

The Owner may receive the housing assistance payments due under the HAP contract for so much of the month in which the family vacates the unit as the unit remains vacant as long as it was not a result of an action by the owner in violation of the lease or contract.

Should the unit continue to remain vacant, the owner may receive from the PHA a housing assistance payment in the amount of 80 percent of the contract rent for a vacancy period not exceeding an additional month.

However, if the owner collects any of the family's share of the rent for this period, the payment must be reduced to an amount which, when added to the family's payment, does not exceed 80 percent of the contract rent. Any such excess must be reimbursed by the owner to the PHA.

The owner will not be entitled to any payment unless the owner:

a. Immediately upon learning of the vacancy, the owner notified the PHA of such vacancy or prospective vacancy; and
b. The owner has taken and continues to take all feasible actions to fill the vacancy and has not rejected any eligible applicant except for good cause acceptable to the PHA;
c. Further, if the owner evicts an eligible family, the owner is not entitled to any payment unless the PHA determines that the owner complied with all requirements of the contract.

The owner will not be entitled to housing assistance payments with respect to vacant units under this section if the owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocation pursuant to Title I of the HCD Act of 1974 or payments for unpaid rent under 24 CFR 882.414 (Security and Utility Deposits)).

16.15 Continued Participation of Family If Contract is Terminated

Owner's Violation of Contract or Lease

If an owner evicts an assisted family in violation of the contract or otherwise breaches the contract, and the contract for the unit is terminated, and if the family was not at fault and is eligible for continued assistance, the family may continue to receive housing assistance through the conversion of the Mod-Rehab assistance to tenant-based assistance under the HCV Program. The unit will remain under the Mod-Rehab ACC which provides for such a conversion of the units; therefore, no amendment to the ACC will be necessary to convert to the HCV Program.

The family must be issued a voucher, and treated as any participant in the HCV program and must be assisted by the PHA in finding a suitable unit. All requirements of the HCV Program will be applicable except that the term of any housing assistance payments contract may not extend beyond the term of the initial Mod-Rehab Contract. If the Family is determined ineligible for continued assistance, the voucher may be offered to the next family on the PHA's HCV waiting list.

Owner's Decision NOT to Renew the HAP Contract

Owners are required to submit a written request to renew the contract 75 days in advance of the termination date of the HAP contract. If the owner elects not to renew the expiring Contract or the owner fails to respond in accordance with the PHA's instructions related to contract renewal, the PHA must request HUD to issue HCV vouchers to the tenants residing in the assisted units subject to the contract at least 60 days prior to the expiration date of the Mod-Rehab Contract. If the owner requests renewal and/or the contract is renewed, the tenants are not entitled to HCV vouchers and must continue to occupy their Mod-Rehab units and be treated as participants in the Mod-Rehab Program.

Statutory Owner Notification Requirement

Not less than a year before the termination or expiration of the Section 8 Mod-Rehab HAP contract, the owner must provide written notice to tenants assisted under such Mod-Rehab HAP contract. This notice is required to inform residents of the impending HAP contract expiration. The law also requires that the owner submits the notice to the PHA.

If the HAP contract is not renewed because:

1. The owner declined the offer of a one-year (or less) renewal;
2. The owner has been found to have engaged in material adverse financial or managerial actions or omissions with regard to the project (including material default under the HAP contract);

And the owner failed to provide the proper notice, the tenant is protected as if there were an assisted tenancy until one year from the time the owner actually provides the notice. If the HAP contract is not renewed because of any of the reasons stated above, the PHA must give the owner the option of extending the Mod-Rehab HAP contract for such period of time necessary to meet the statutory notice requirement. Renewal rent level procedures shall apply. However, if the owner does not give proper notice and does not wish to execute a short term renewal HAP contract during the period of time necessary to meet the statutory notice requirement, one of the following options may be chosen:

a. The owner and the family may agree to enter into a HCV tenancy for the unit, in accordance with all HCV program rules. If this option is selected, the voucher will be enhanced, but only if the reason for non-renewal fall under either 1 or 2 above;
b. The tenant may use the HCV to locate another unit, or may otherwise vacate the unit if the tenant so chooses;
c. The tenant may continue to occupy the unit under an unassisted tenancy, and the owner must not, until at least one year has passed since the owner's notice, increase the tenant's rent above the level of the tenant payment under the expiring HAP contract. The owner is not entitled to any

HAP payment. Also, during this time, the owner cannot terminate the tenancy of the family other than for serious or repeated violation of the lease, violation of applicable federal, state, or local laws, or for other good cause.

Chapter 17 – Violence against Women Reauthorization Act of 2013

17.1 Violence Against Women Reauthorization Act of 2013

Updated by Notice PIH-2017-08(HA)
The Violence Against Women Reauthorization Act of 2013 (VAWA) provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights IF the tenant or an affiliated individual of the tenant is the victim of that domestic violence, dating violence, sexual assault or stalking.

17.2 Definitions

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Affiliated individual, with respect to an individual, means:

a. A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

b. Any individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Covered housing provider refers to the individual or entity under a covered housing program, and as defined by each program in its regulations, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

Dating violence means violence committed by a person:

a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;
2. The type of relationship; and
3. The frequency of interaction between the persons involved in the relationship

Domestic violence includes felony or misdemeanor crimes of violence committed by:

a. a current or former spouse or intimate partner of the victim,
b. by a person with whom the victim shares a child in common,
c. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
d. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
e. by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

a. Fear for the person's individual safety or the safety of others; or
b. Suffer substantial emotional distress.

17.3 Eligibility

VAWA protections cover tenants and assisted families. VAWA protections also cover applicants when they are applying for admission to a covered housing program.

VAWA protections do not apply to guests, unassisted members, and live-in aids. However, as a reasonable accommodation, a tenant/participant can request VAWA protections based on the grounds that the live-in aid is a victim of domestic violence, dating violence, sexual assault or stalking. In addition, other reasonable accommodations may be needed on a case-by-case basis.

17.4 Notification

Notification to Participants

[24 CFR 5.2007(3)(i)]
VAWA requires PHAs to notify HCV program participants of their rights under this law including their right to confidentiality and the limits thereof. The PHA will provide program participants with notification of their protections and rights under VAWA. The notice will explain the protections afforded under the law, inform the participant of PHA's confidentiality requirements and provide contact information for local victim advocacy groups or service providers.

Notification to Applicants

PHA will provide all applicants with notification (HUD form-5380) of their protections and rights under VAWA at the time PHA processes an application and screens for suitability for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of PHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

PHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA.

Notification to Owners and Managers

VAWA requires PHAs to notify owners and managers of their screening and termination responsibilities related to VAWA. PHA may utilize any or all of the following means to notify owners of their VAWA responsibilities: Orally during normal business interaction; mailings, and VAWA information on the city's website.

17.5 Certification / Documentation

The individual claiming protection under VAWA shall provide the proper certification/documentation to the PHA within 14 business days after the PHA requests, in writing, for the individual to provide the necessary certification/documentation. If the individual does not provide an accurate and complete certification/documentation within the 14 business days, the PHA may take action to deny or terminate participation in the HCV or Mod-Rehab program. Additional time for extenuating circumstances may be granted to the victim on a case-by-case basis.

The PHA will request the individual claiming domestic violence, dating violence, sexual assault, or stalking to document his/her claim by making such request in writing (letter must be sent) and attaching form HUD-5382.

An individual may satisfy the documentation request in any of the following ways:

- Completing a HUD-approved certification form (HUD-5382) or signed statement verifying that the individual is a victim of domestic violence, dating violence, sexual assault or stalking, the name of the perpetrator. OR
- Providing the requesting owner or the PHA with documentation signed by any of the following third parties: (a) an employee, agent, or volunteer of a victim service provider; (b) an attorney; (c) a medical professional; or (d) other knowledgeable professional. The person signing the documentation must have assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse. The person signing the documentation must attest under penalty of perjury to his or her belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the VAWA. The victim of domestic violence, dating violence, sexual assault or stalking must also sign the documentation attesting under penalty of perjury as well. OR
- Producing a Federal, State, tribal, territorial, or local police or court record.

Nothing in this Plan shall be construed to require the PHA to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive any of the benefits provided in this section. At their discretion, the PHA may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

In a circumstance whereby conflicting information exists, the PHA must accept the submitted information and is prohibited from seeking additional documentation of victim status, unless the submitted documentation does not meet the criteria in the VAWA Final Rule or the submitted documentation contains conflicting information, including conflicting claims between two parties.

The PHA is prohibited from conducting further fact finding for the purpose of trying to verify the "validity" of an applicant or tenant's victim status. For example, PHAs and Mod-Rehab building owners are prohibited from conducting interviews with neighbors or employers to determine if the applicant or tenant is "really" a victim of domestic violence, dating violence, sexual assault or stalking. Doing so would be in violation of the documentation requirements of the VAWA Final Rule and may result in a violation of the victim confidentiality requirements of the VAWA Final Rule.

17.6 PHA Confidentiality Requirements

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law. If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified. If disclosure of the information would place the victim's safety at risk, the PHA will work with the victim to determine whether there are alternatives to disclosure.

If because of safety concerns a victim of domestic violence, dating violence, sexual assault or stalking is unwilling or unable to provide information or identification ordinarily required to confirm eligibility, efforts will be made to otherwise establish eligibility and alternative sources and methods of verification will be accepted.

17.7 Perpetrator Removal or Documentation of Rehabilitation

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, sexual assault or stalking, The PHA will proceed as above but will require, in addition, either:

- That the perpetrator be removed from the applicant household and not reside in the assisted housing unit. Remaining family members have the right to establish program eligibility. If a sole remaining tenant cannot establish eligibility, the PHA or owner is required to provide the tenant a reasonable period of time to find new housing or to establish eligibility under another covered housing program.
- That the family provides documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

17.8 PHA's Right to Terminate Housing Assistance

The PHA reserves the right to terminate a client's assistance derived from direct program violations as stipulated in this Administrative Plan even if the client is claiming VAWA as a defense if it is determined by the PHA, at its sole discretion, that such claims are not true or credible. Nothing in this policy will restrict the PHA's right to terminate program assistance if the client:

- Allows a perpetrator to violate a court order relating to the acts of violence; or
- If participant allows a perpetrator who has been banned from an assisted unit to enter the assisted unit.

U S Department of Housing and Urban Development Form HUD-5381

OMB Approval No. 2577-0286

City of Miami
Department of Housing & Community Development
Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

The City of Miami (PHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA)[1] The PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation[2]. The ability of PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether there is an appropriate size vacancy in a moderate-rehabilitation funded building that is available and is safe to offer the tenant for temporary or more permanent occupancy or if there is a landlord with an appropriate size unit willing to lease a unit immediately.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees the PHA's compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

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[1] Despite the name of this las, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

To request an emergency transfer, the tenant or participant shall start by notifying the PHA of the need to request the emergency transfer by completing the Emergency Transfer Request Form (HUD Form 5383).

PHA will provide the tenant or participant with information in writing requesting required documentation. The Tenant or Participant will then have fourteen (14) business days to submit one of the four (4) acceptable methods of documentation listed below:

1. HUD-Approved form – by providing to PHA or to the requesting Section 8 owner a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD Form 5382):

i. That the individual is a victim of domestic violence, dating violence, sexual assault or stalking;
ii. That the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definitions set forth in this policy;
iii. Includes the name of the perpetrator, if the name is known to the tenant or participant and safe to provide.

2. Other Documentation- In lieu of the certification form or in addition to the certification form PHA may accept documentation signed by both:

i. An employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking; and
ii. The participant or tenant.

The documentation shall state, under penalty of perjury, the professional's belief that the incident or incidents in question meet the requirements of the applicable definition(s) set forth in this policy.

3. Police or Court Record- by providing to PHA or to the requesting Section 8 owner a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

4. A statement or other evidence provided by a participant or tenant.

The tenant or participant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant or participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same dwelling unit assisted under FH program; OR

2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

PHA will provide reasonable accommodations to this policy for individuals with disabilities.

Emergency Transfer Timing and Availability

PHA cannot guarantee that a transfer request will be approved or how long it will take to process a VAWA emergency transfer request. PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred.

The tenant will be required to provide a good reason for refusing the unit and documentation supporting their good cause reason for refusing the unit. PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If PHA has no safe and available units for which a tenant who needs an emergency is eligible, PHA shall assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Housing Choice Voucher Program Issuance of Voucher:
Participants in PHA's Housing Choice Voucher Program (HCV) who request and are approved for a VAWA related transfer will be processed for a transfer voucher.

Safety and Security of Tenants
Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe. Tenants who are or have been victims of domestic violence are encouraged to contact the **National Domestic Violence Hotline** at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the **Rape, Abuse & Incest National Network's National Sexual Assault Hotline** at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the **National Center for Victims of Crime's Stalking Resource Center** at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Confidentiality
PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives PHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

ITY OF MIAMI
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING, AND ALTERNATE DOCUMENTATION

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's):_____

4. Name(s) of other family member(s) listed on the lease: _____

_____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely is closed):_____

_____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known):_____

_____

9. Location of incident(s):_____

In your own words, briefly describe the incident(s):
_____
_____
_____
_____
_____
_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

CITY OF MIAMI
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING, AND ALTERNATE DOCUMENTATION

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.
The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

_____

4. Name(s) of other family member(s) who would transfer with the victim: _____

_____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed):_____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s):_____

_____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

_____

_____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

Chapter 18 – Rental Assistance Demonstration (RAD)

On September 5, 2019, the Office of Public and Indian Housing (PIH), issued notice H-2019-09 PIH 2019-23 (HA) which relates to the final implementation of the Rental Assistance Demonstration (RAD) program.

RAD provides the opportunity to test the conversion of Moderate Rehabilitation projects to long-term, project-based Section 8 rental assistance to achieve the preservation and improvement of these properties through enabling access by PHASs and owners to private and public debt and equity to address immediate and long-term capital needs.

As the City does not own or manages Public Housing, this Chapter is focused on the Second Component of the notice that refers to Mod Rehab conversions.

Under this Second Component, Mod Rehab owners may choose between two forms of long-term Section 8 Housing Assistance Payment (HAP) Contracts: (1) Project-Based Vouchers (PBV); and (2) Project-Based Rental Assistance (PBRA). Conversions may be prospective (when an owner still has an active Mod Rehab contract at the project) or retroactive (when the Mod Rehab contract has already expired at the project). This chapter only deals with either prospective or retroactive owners choosing to follow a PBV contract whose property is/are located within City of Miami limits.

18.1 PBV Conversions

An owner may request to enter into a Section 8 PBV HAP Contract with an eligible PHA to administer the contract. All regulatory and statutory requirements of the PBV program in 24 CFR Part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

Prospective Conversions

Projects are eligible for prospective conversions if the Mod Rehab contract has not yet expired or been terminated. In a prospective conversion, the project will receive PBV assistance in lieu of the TPV assistance that would have been otherwise provided to project residents. Prospective conversions may be suspended in a particular fiscal year if HUD does not have sufficient TPV appropriations to fund all of the demands on the TPV account, in which case the Mod Rehab contract would be renewed until funds become available.

Owners must comply with the resident consultation procedures described in this Notice and must submit a request to HUD to confirm that the PHA that currently administers the Mod Rehab contract is willing to administer the PBV contract. If that PHA declines to consent, HUD will make a reasonable effort to find a PHA with operational jurisdiction willing to enter into a PBV contract with the owner. Following resident consultation and submission and approval of a Conversion Plan, the project will close when any new financing closes, the Mod Rehab contract is terminated (or expires), and the new HAP Contract is

executed. The PHA that has agreed to administer the PBV HAP Contract will have the vouchers added to its Annual Contributions Contract (ACC).

Retroactive Conversions

Where contract expiration has occurred and TPVs or EVs have already been issued to project residents, projects may be eligible for a retroactive conversion to PBV assistance. The contract expiration and issuance of EVs or TPVs must have occurred on or after October 1, 2006.

Only the units occupied by eligible low-income residents that received TPV or EV assistance at the time of contract expiration or termination, who continue to reside in the project, and who consent to the conversion may be assisted under the PBV HAP Contract. For retroactive conversions, as required under the RAD Statute, the Administering PHA must approve a request for a retroactive conversion to a PBV HAP Contract. If the Administering PHA does not consent to long-term conversion of the contract to PBV assistance, the project is not eligible for retroactive conversion.

A. Eligibility

Eligible Owners

1. **Compliance with HUD and PHA Requirements**
   Owners must be in good standing with HUD and the PHA. The owner must not have a history of non-compliance with program and contractual requirements, including maintaining units in a decent, safe, and sanitary manner. If a proposed conversion is in the context of an acquisition the purchaser must provide evidence of successful experience owning and operating HUD or other affordable multifamily housing properties.

2. **Fair Housing and Civil Rights Compliance**
   An owner must resolve to HUD's satisfaction any outstanding civil rights matters prior to conversion. All pending legal processes must have been satisfied to meet this standard. If eligibility would be denied on this basis, HUD will notify the applicant of its determination and any actions necessary to permit a finding of eligibility.

Eligible Properties and Units

1. **Eligible Properties**
   A project is eligible for a prospective conversion if the project is currently receiving assistance through a Mod Rehab contract that is either in its initial or renewal term. For retroactive conversions, a project is eligible to convert if the project previously had a Mod Rehab contract that expired or terminated on or after October 1, 2006. Properties that were previously assisted under a Mod Rehab contract where the HAP Contract has been terminated by the Administering PHA due to non-compliance are ineligible to participate.

2. **Physical Condition**

The converting units must qualify as existing housing in order to be selected for conversion. The PHA must ensure that units substantially meet NSPIRE/HQS. Prior to entering into a PBV, the PHA will inspect the units proposed for conversion to ensure that the units fully comply with NSPIRE/HQS. The HAP Contract will not be executed until and unless the converting units fully meet NSPIRE/HQS, unless the PHA is using HOTMA non-life threatening deficiencies and alternative inspection provisions.
All PBV conversions of properties constructed before 1978 must provide evidence that the project meets the lead paint evaluation and remediation requirements of 24 CFR 35.

3. Eligible Units

All units on the Mod Rehab contract that are eligible for Tenant Protection Vouchers (TPVs) at the expiration or termination of the Mod Rehab contract under PIH's HCV funding Appropriations Act notices are eligible for conversion under RAD. The PHA makes the final determination of unit eligibility to be included in the PBV HAP Contract.

For retroactive PBV conversions, eligible Mod Rehab contract units are those that are occupied at the time of the RAD conversion by households who received TPV assistance as the result of the expiration or termination of the contract.

B. Conversion Planning Requirements

Capital Needs Assessment (CNA)

Each project selected for award will be required to perform a detailed physical inspection to determine both short-term rehabilitation needs and long-term capital needs to be addressed through a Reserve for Replacement Account. A CNA must be submitted with the Conversion Plan. Please refer to latest PIH Notice on RAD conversion for different transaction scenarios.

Healthy Housing and Energy Efficiency

For all projects retrofitted under a RAD conversion, if systems and appliances are being replaced as part of the Work identified in the approved Conversion Plan, Owners shall utilize the most energy- and water-efficient options that are financially feasible and that are found to be cost-effective. The use of Energy Star®, WaterSense® or Federal Energy Management Program (FEMP)-designated products and appliances replacements, if any such designation is available for the applicable system or appliance, is presumed to be the minimum threshold for meeting such requirement.

Owners are strongly encouraged, for all RAD conversion projects, to scope rehabilitation and ongoing replacements that utilize components that will improve indoor air quality and/or reduce overall environmental impact where those components have little or no cost premium, consistent with the principles and best practices of the green building industry.

Financing

An owner's Conversion Plan must demonstrate the availability of resources adequate to address all current and ongoing capital needs identified in the CNA.

Environmental Reviews

Under Federal environmental review requirements, proposed RAD projects are subject to environmental review. Environmental documents are required to be submitted as part of the applicant's overall Conversion Plan. A Conversion Plan cannot be approved by HUD if the project plan does not meet environmental review requirements.

Lead Safety

- A CNA performed for a project built before 1978, and the scope of the rehabilitation that follows, must address lead safety with respect to paint, dust, soil (including compliance with 24 CFR 35, subparts B – R), and water (including lead service line replacement).
- For a project built before 1978 for which a CNA is not performed, the scope of the rehabilitation must address lead safety with respect to paint, dust, soil (including compliance with 24 CFR 35, subparts B – R), and water (including lead service line replacement).

Relocation and Right to Return

Any person who is legally on the lease or otherwise in lawful occupancy at the Converting Project at or after the time of submission of the Conversion Plan has a right to remain in or, in the event that rehabilitation will result in the relocation of residents, a right to return to an assisted unit at the Covered Project. Any relocation as a direct result of acquisition, demolition, or rehabilitation is subject to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) which are found at 49 CFR part 24. Proper notices including the General Information Notice (GIN), when applicable, must be sent in accordance with URA regulations and other applicable relocation regulations.

The applicability of URA or section 104(d) requirements to a RAD conversion is fact-specific and must be determined in accordance with the applicable URA and section 104(d) regulations. Permanent involuntary displacement of residents may not occur as a result of a Project's conversion of assistance. If proposed plans for a Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. If the resident objects to such plans, the Project Owner must alter the Project plans in order to house the resident in the Covered Project. If a resident agrees to the plans which would preclude the resident's return, the Project Owner must ensure that the resident's decision is fully informed, voluntary, and well documented. To be fully informed, at a minimum the resident must be notified in writing of a) his or her right to return; b) his or her right to object to plans which would preclude the resident from returning; c) the Project Owner's obligation to accommodate the resident's right to return; and d) a description of the short and long-term implications of both the right to return arrangements (e.g., temporary relocation) and the resident's options if the resident agrees to such plans. The resident must be provided counseling regarding the resident's rights and options. To be voluntary, a resident must be informed of their right to return, potential for relocation,

and temporary and permanent housing options 30 days before making a decision. In addition, under the URA regulation, residents must be provided notice of relocation at least 90 days before the relocation. The Project Owner cannot employ any tactics to pressure the resident into relinquishing his or her right to return or accepting permanent relocation assistance and payments. To be well documented, evidence of a resident's decision must be retained by the Project Owner. At a minimum such evidence must include copies of notices informing the resident of their options, records of any counseling or assistance provided, and the resident's informed, written consent, including an acknowledgement that acceptance of such assistance terminates the resident's right to return to the Covered Project. If the resident agrees to the Project Owner's plans, the permanent relocation is considered voluntary, but must include, at a minimum, any relocation assistance and payments required under the URA and Section 104(d), as applicable. The Project Owner may not propose or request that residents waive their rights or entitlements to relocation assistance under the URA or Section 104(d).

Accessibility Requirements

Federal accessibility requirements apply to all conversions. The laws that most typically apply to rehabilitation include Section 504 of the Rehabilitation Act of 1973 (Section 504), and in some cases, the Americans with Disabilities Act (ADA). Although the requirements of each of these laws are somewhat different, Owners must comply with each law that applies. Section 504 and the ADA apply to substantial alterations and other alterations as defined in 24 CFR § 8.23 and to existing, unaltered facilities (24 CFR § 8.24). See also 28 CFR § 35.151(b) and 28 CFR § 36.

When a project's rehabilitation meets the definition of a "substantial alteration" under 24CFR § 8.23, the PHA or Project Owner, as applicable, must comply with all applicable accessibility requirements under Section 504 and HUD's implementing regulations. For some projects undertaking repairs, "other alterations" described at 8.3 are made over time. If other alterations, considered together (such as improvements to the kitchen and bathroom), amount to an alteration of an entire dwelling unit, the entire dwelling unit shall be made accessible.

Owners are encouraged to use universal design principles, visitability principles, and active design guidelines in planning any construction, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA, and the Fair Housing Act.

Site Selection and Neighborhood Standards

Where an owner is planning to convert assistance under RAD, the owner must comply with all applicable site selection requirements, including those of 24 CFR § 983.57.

Change in Unit Configuration

Owners may change the unit configuration in conjunction with conversion (e.g., combine SRO units into efficiencies or one-bedroom apartments). However, the Owner must ensure that the change in bedroom distribution will not result in the involuntary permanent displacement of any resident and will not result in discrimination based on race, color, national origin, religion, sex, disability, or familial status. Where the change in unit configuration will result in a reduction of assisted units, PHAs may request Tenant

Protection Vouchers (TPVs) for any eligible residents that elect not to return to the property upon completion of the change in unit configuration.

Transfer of Assistance

In order to facilitate the financing, development, and preservation of decent, safe, and affordable housing, there are three scenarios under which assistance converted pursuant to RAD may be transferred off of the existing parcel of land (for the purposes of this paragraph, transfer of assistance does not include transfers to an adjacent site): (1) where the Owner requests assistance to be transferred as part of the conversion from Converting Project to Covered Project; (2) post-conversion where a Project Owner requests a partial or full transfer of assistance, or (3) where, as a result of a default of the HAP Contract, HUD terminates the HAP Contract. For more information, please refer to latest RAD Notice.

No Rescreening of Tenants upon Conversion

Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

C. Special Provisions

Length of Contract

By choosing to participate in the RAD program, the PHA and owner agree to an initial HAP Contract term of 20 years. A PHA may enter into an extension of the initial HAP Contract term with the Owner at any time during the initial term. The PBV HAP Contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.

Cap on the Number of PBV Units in Each Project

There is no cap on the number of units that may receive RAD PBV assistance in each project.

Site selection –Compliance with PBV Goals, section 8(o)(13)(C)(ii) of the Act and 24CFR § 983.57(b)(1) and (c)(2)

HUD waives these provisions having to do with deconcentration of poverty and expanding housing and economic opportunity, for the existing site.

Owner Proposal Selection Procedures, 24 CFR § 983.51

Projects are selected in accordance with program requirements detailed in this Notice. HUD is waiving 24 CFR §983.51. With respect to site selection standards, HUD requires compliance with the site selection standards as set forth in this Notice.

Initial Contract Rent Setting

Initial rents for PBV contracts are determined by the PHA, in accordance with 24 CFR Part 983 Subpart G. Such rents generally cannot exceed the lowest of: (i) an amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance; (ii) the reasonable rent; or (iii) the rent requested by the owner. (See 24 CFR § 983.301 for program requirements on establishing initial rents).

For RAD conversions, HUD is waiving 24 CFR § 888.113(f)(2) and establishing the alternative requirement that the applicable FMR used for SRO units for initial and redetermined rents shall be the zero bedroom (efficiency) FMR.

Re-Determined Rents

The rent to owner will be redetermined in accordance with 24 CFR § 983.302.

Under-Occupied Units

If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in the unit until an appropriately-sized unit becomes available in the Covered Project.[116] When an appropriately-sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriately-sized unit within a reasonable period of time, as determined by the PHA. In order to allow the family to remain in the under-occupied unit until an appropriately-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived.

Davis-Bacon Prevailing Wages

Execution of a PBV contract through RAD that provides rental assistance to previously-assisted units does not trigger Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and implementing regulations, rules, and requirements). However, to the extent that construction or rehabilitation is performed on nine or more units that were not previously rent assisted or rent restricted and will be newly assisted as a result of the conversion transaction (including, without limitation, through transfer of assistance), such construction or rehabilitation is subject to Davis-Bacon prevailing wage requirements.

Replacement Reserve

The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items. The reserve must

be built up to and maintained at a level determined by HUD to be sufficient to meet projected needs. Replacement reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the mortgagee or, where there is no financing, by the Project Owner and may be drawn from the reserve account and used subject to HUD guidelines.

D. Conversion Requirements

Conversion of a Mod Rehab project will generally entail:

- An initial submission of interest
- Resident consultation
- CoC consultation (for SROs only)
- Selection of City of Miami as the PHA
- Conversion Plan submission and conditional approval
- Closing of financing and HAP Contract execution consistent with conditional approval.

For more detailed information please refer to latest RAD notice.

Role of the Administering PHA

1. **Pre-Selection Inspection.** The PHA must ensure that the units substantially meet NSPIRE/HQS, as defined in the PHA's Section 8 administrative plan, prior to submission of the Conversion Plan.
2. **Initial contract rent setting.** The PHA will determine the initial contract rents.
3. **Request the Number of Vouchers.** The PHA will request vouchers based on the number of units on the Mod Rehab contract that are eligible for TPVs at the expiration or termination of the Mod Rehab contract under PIH's HCV funding Appropriations Act notices (or successor PIH notices regarding TPV allocations).
4. **NSPIRE/HQS inspections.** Prior to execution of the HAP Contract, the PHA must inspect the Converting Project proposed for conversion to ensure that the units fully comply with NSPIRE/HQS.

Chapter 19 – Fair Housing and Equal Opportunity

Part III – Prohibition of Discrimination Against Limited English Proficiency Persons: This part details the obligations of the PHA to ensure meaningful access to the programs 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.

19.1 Nondiscrimination

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of age, race, color, religion, sex, national origin, familial status, and disability[4]. 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 including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 (Equal Opportunity in Housing)
- 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)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- 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
- When more than one civil rights law applies to a situation, the laws will be read and applied together.

[4] *Chapter 11A of the Miami-Dade County code identifies additional protected classes the City of Miami will also abide by. These additional classes include ancestry, pregnancy, marital status, or sexual orientation.*

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

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 against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin[5] (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 2/03/12]

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

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[5] Chapter 11A of the Miami-Dade County code identifies additional protected classes the City of Miami will also abide by. These additional classes include ancestry, pregnancy, marital status, or sexual orientation.

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 age, race, color, religion, sex, national origin, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA in writing. 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 addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

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

19.2 Policies Related to 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, in addition to relevant guidance from the Joint statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, polies, 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.

Definition of Reasonable Accommodation

A person with a disability may require certain types of accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

Types of Reasonable Accommodation

When needed, the PHA must modify its normal procedures in an effort to accommodate the needs of a person with disabilities. Examples include:

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

Request for 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 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.

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 relationship between the requested accommodation and the individual's disability.

The PHA will encourage the family to make its request for reasonable accommodation in writing utilizing the proper request format. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

Verification of Disability

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.

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.

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 this plan. All information related to a person's disability will be treated in accordance with the PHA's confidentiality policies. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability.

- Third party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.
- 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].

Approval or Denial of a Requested Accommodation

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

1. The request was made by or on behalf of a person with a disability;
2. There is a disability-related need for the accommodation;
3. 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)

Request for accommodations must be assessed on a case-by-case basis, taking into consideration factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, 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.

If PHA denies a request for reasonable accommodation because it does not seem to be reasonable, PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related need without a fundamental alteration of the housing program and without imposing an undue financial and administrative burden.

If PHA and the family fail to identify a reasonable alternative accommodation, PHA will notify the family of the results.

Program Accessibility for Persons with Hearing or Visual 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 [24 CFR 8.6]

To meet the need of persons with hearing impairments, TTD/TTY (text telephone display/teletype) communication will be available through 7.1.1.

To meet the needs with vision impairments, large-print and audio versions of key program documents will be made available upon request.

Denial or Termination of Assistance

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

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

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

When reviewing reasonable accommodations request, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome/alleviate 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.

19.3 Improving Access to Services for Persons with Limited English Proficiency

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 Section 8 program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English.

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 or Mod-Rehab 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 factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program
4. The resources available to the PHA and costs.

Oral and Written Translation

The PHA assesses language needs and takes reasonable steps to ensure that bilingual staff is readily available to assist LEP persons to act as interpreters and translators. In addition LEP persons will be permitted to use, at their own expense, an adult interpreter of their own choosing, in place of or as a supplement to the free language translation services offered by the PHA.

“Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Translation of documents will be provided on an as-needed and as-requested basis free of cost.

Exhibit 18-1
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 a 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 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:

<u>Current illegal drug users</u>
People whose alcohol use interferes with the rights or 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 $525 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 disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.