ADMINISTRATION PLAN - 2024

HOUSING CHOICE VOUCHER AND SECTION 8 PROGRAM

Any HUD regulations, Interim Rules, Final Rules, PIH Notices, etc., published and implemented by HUD prior and/or subsequent to adoption of this Administrative Plan ("Admin Plan") that conflict with this Admin Plan will supersede what is noted in the Admin Plan, and will be enforced accordingly.

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CHAPTER 1

OVERVIEW OF THE PROGRAM AND ADMINISTRATIVE PLAN

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U. S. Housing Act of 1937. The act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher (HCV) Program and the Project-Based Voucher Program, or the Moderate Rehabilitation Program are described in and implemented through this Administrative Plan (Admin Plan).

Administration of the Housing Programs shall be in accordance with the Department of Housing and Urban Development's (HUD) regulations as well as applicable Federal, State, and local laws.

The Detroit Housing Commission (DHC) receives its funding for the Housing Programs from HUD. DHC is not a federal department or agency. DHC is a public housing agency (PHA) that is a public body corporate, created and authorized by state law to develop and operate housing and housing programs for low-income families.

DHC enters into an Annual Contributions Contract (ACC) with HUD to administer the Housing Programs on behalf of HUD. DHC must ensure compliance with Federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in operation of the Housing Programs.

This chapter contains information about DHC and its Housing Programs with emphasis on the HCV Program.

RULES AND REGULATIONS

There are three parts to this chapter:

Part I: DHC. This part includes a description of DHC's jurisdiction and its mission.

Part II: The HCV Program. This part contains information about the HCV Program's operation, roles and responsibilities, and partnerships.

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

PART I: DHC

1.1.A DHC'S JURISDICTION

HUD. DHC is not a federal department or agency. DHC is a public housing agency (PHA) that is a public body corporate, created and authorized by state law to develop and operate housing and housing programs for low-income families.

1.1.B DHC'S MISSION

"The Detroit Housing Commission will effectively and efficiently develop, manage, and preserve quality affordable housing.

- Develop and maintain community partnerships
- Promote high quality customer service
- Sustain sound fiscal management
- Ensure Operational sustainability"

1.1.C DHC'S HOUSING PROGRAMS

This Admin Plan is applicable to the operation of the HCV Program and the Project- Based Voucher Program and the Moderate Rehabilitation (Mod Rehab) Program.

Project-Based Voucher are the same as those for the Housing Choice Voucher Program unless otherwise noted in this Administrative Plan.

PART II: THE HCV PROGRAM

1.2.A HCV PROGRAM BASICS

The purpose of the HCV Program is to provide rental assistance to eligible families. The rules and regulations of the HCV Program are determined by HUD. DHC is afforded choices in the operation of the HCV Program that are included in DHC's Admin Plan.

The HCV Program offers mobility to eligible families because they may search for suitable housing anywhere in DHC's jurisdiction and may also be eligible to move under portability to another PHA's jurisdiction. When a family is determined to be eligible for the HCV Program and funding is available, DHC will issue the family a housing voucher.

When the family finds a suitable housing unit and funding is available, DHC will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though DHC may determine a family is eligible for the HCV Program, the owner has the responsibility of approving the family as a suitable renter. DHC will continue to make payments to the owner as long as the family is eligible, and the housing unit continues to qualify under the HCV Program.

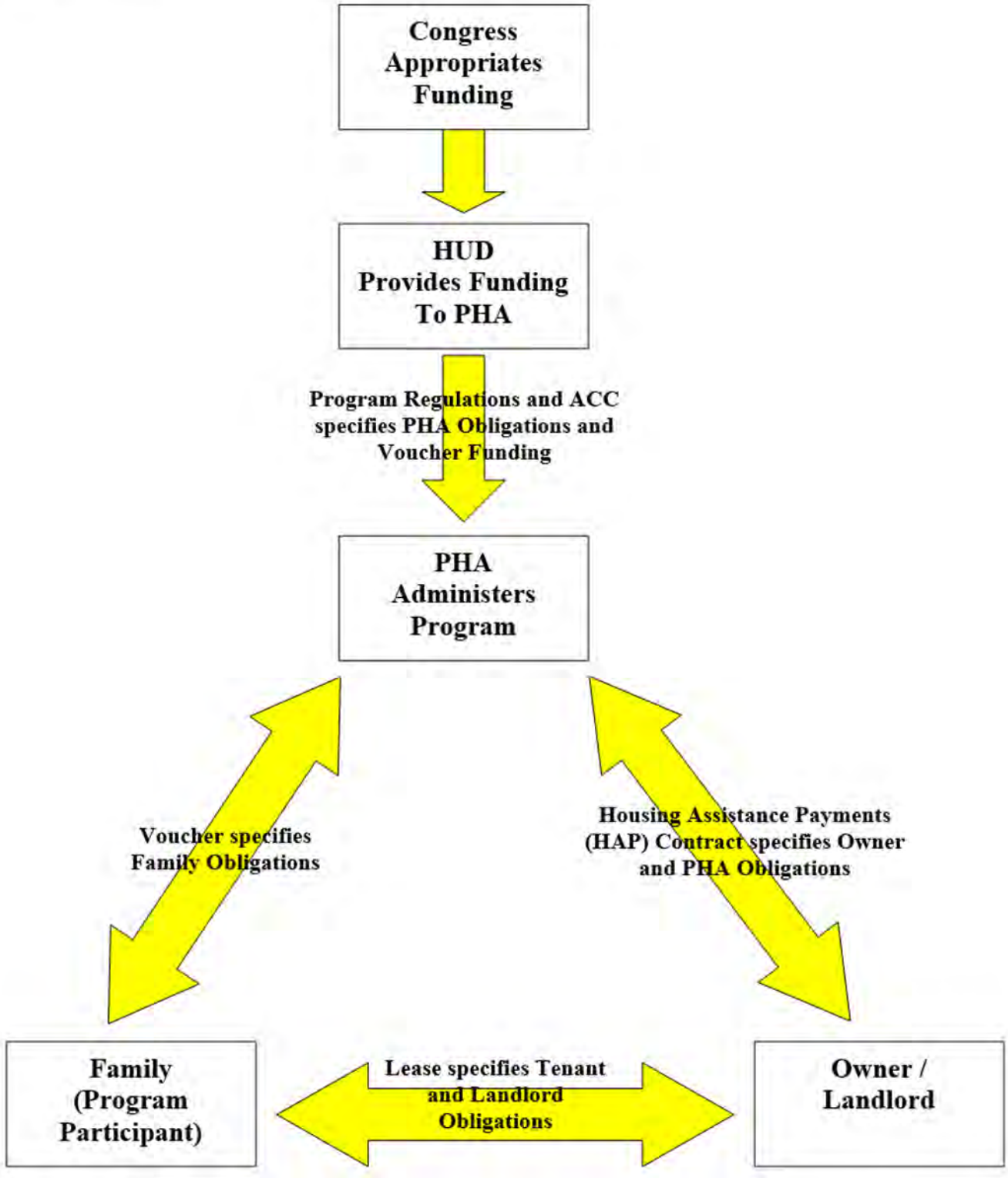
There have been changes that will impact how DHC administers its programs. On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and 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.

1.2.B HCV PARTNERSHIPS

To administer the HCV Program, DHC enters into a contractual relationship with HUD via the ACC. DHC also enters into contractual relationships with the assisted family via the voucher and the owner or landlord of the housing unit via the Housing Assistance Payments (HAP) Contract. For the HCV Program to work and be successful, all parties involved – HUD, DHC, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the HCV Program.

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

The HCV Relationships:



1. What does HUD do?

HUD has the following major responsibilities:

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

2. What does DHC do?

DHC administers the HCV Program and has the following major responsibilities:

- Establish local policies.
- Review applications from interested applicant families to determine applicant eligibility.
- Maintain waiting list and select families for admission.
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live.
- Publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis.
- Publicize the opening of its waiting list and the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable print media.
- Conduct outreach to owners.
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy.
- Make timely housing assistance payments to the owner.
- Ensure that families and their rental units continue to qualify under the HCV Program.
- Ensure that owners and families comply with HCV Program rules.
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, DHC's Admin Plan, and other applicable federal, state, and local laws.

3. Controlling Authority of Federal Requirements

All issues related to Section 8 not addressed in this Admin Plan are governed by federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. If this Admin Plan conflicts with applicable law and/or HUD regulations, the applicable law and/or HUD regulations will supersede this Admin Plan.

4. Owner Outreach [24 CFR 982.54(d) (5), 982.153]

DHC will make a concerted effort to keep private owners informed of legislative changes in the HCV Program, which are designed to make the HCV Program more attractive to owners. DHC desires owners of decent, safe, and sanitary housing units to lease to HCV families. To ensure greater mobility and housing choice, DHC will maintain and periodically update a list of interested landlords/list of units available for the HCV Program within its jurisdiction.

The list of available units will be readily available for applicant briefings and participants searching for housing. DHC will highlight properties located in <10% de-concentrated areas as a means of notifying HCV Program applicants and participants of their housing choices in these areas.

DHC will actively recruit property owners with property located outside areas of poverty or minority concentration, and if applicable, will grant or apply for exception Payment Standards to make housing located outside of areas with high poverty and minority concentration available. Additionally, DHC will periodically evaluate the distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted.

DHC will conduct annual meetings with participating owners and prospective landlords to improve relations and to recruit new participating owners via Landlord Workshops. Newsletters and printed materials will be offered to acquaint owners and property managers with opportunities available under the HCV Program, as well as on DHC's Landlord Portal on DHC's website at www.dhcmi.org.

DHC shall periodically:

- Develop working relationships with owners and property managers.
- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displaced families.
- Explain the HCV Program, including equal opportunity requirements and non- discrimination requirements to property managers, property owners, and other groups that have dealings with low-income families or are interested in housing such families.

5. What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good tenants. DHC can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
- The owner should consider family background factors such as rent and bill- paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the HAP Contract executed with DHC.
- Comply with all applicable fair housing laws and discriminate against no one.
- Maintain the housing unit with National Standards for the Physical Inspection of Real Estate (NSPIRE) and make necessary repairs in a timely manner; and
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

6. What does the Family do?

The family has the following major responsibilities:

- Provide DHC with complete and accurate information as determined by DHC to be necessary for administration of the HCV Program.
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the HCV Program.
- Cooperate in attending all appointments scheduled by DHC.
- Allow DHC to inspect the unit at reasonable times and after reasonable notice.
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family.
- Comply with the terms of the lease with the owner.
- Comply with the family obligations of the voucher.
- Not commit serious or repeated violations of the lease.
- Not engage in drug-related or violent criminal activity.
- Notify DHC and the owner before moving or terminating the lease.
- Use the assisted unit only as a residence and as the sole residence of the family.
- Not sublet the unit, assign the lease.
- Not have any interest in the unit.
- Promptly notify DHC of any changes in family composition; and

- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing programs.

PART III: THE ADMIN PLAN

OVERVIEW AND PURPOSE OF THE ADMIN PLAN

The Admin Plan is required by HUD. The purpose of the Admin Plan is to establish policies for carrying out the Housing Programs, primarily the HCV Program, in a manner consistent with HUD requirements and local goals and objectives contained in DHC's Annual Plan. This Admin Plan is a supporting document to DHC's Annual Plan and is available for public review as required by CFR 24 Part 903.

This Admin Plan defines DHC's local policies for operation of the Housing Programs, in the context of federal laws and regulations.

1.3.A CONTENTS OF THE ADMIN PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the Admin Plan. DHC's Admin Plan must cover DHC policies on these subjects:

- Selection and admission of applicants from DHC's waiting list, including any DHC admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening DHC's waiting list.
- Any special rules for use of available funds when HUD provides funding to DHC for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families.
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553.
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration.
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit.
- Providing information about a family to prospective owners.
- Disapproval of owners (Chapter 13).
- Subsidy standards (Chapter 5).
- Family absence from the dwelling unit.
- How to determine who remains in the HCV Program if a family breaks up (Chapter 3).
- Informal review procedures for applicants.

- Informal hearing procedures for participants.
- The process for establishing and revising voucher payment standards.
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP Contract).
- Special policies concerning special housing types in the HCV Program (e.g., use of shared housing).
- Policies concerning payment by a family to DHC of amounts the family owes DHC.
- Interim re-determinations of family income and composition.
- Restrictions, if any, on the number of moves by a participant family.
- What approval is required to charge the administrative fee reserve.
- Procedural guidelines and performance standards for conducting required housing quality standards inspections.
- Screening of applicants for family behavior or suitability for tenancy.
- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

1.3.B UPDATING AND REVISING THE ADMIN PLAN

DHC will review and may update the Admin Plan periodically due to program changes and/or updates to reflect changes in regulations, DHC operations, or when needed to ensure staff consistency in operation.

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CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter describes HUD regulations and DHC's policies related to these topics in three parts:

Part I: Non-discrimination. This part presents the body of laws and regulations governing the responsibilities of DHC regarding non-discrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the Housing Programs, in general, and the HCV Program in particular related to reasonable accommodation for persons with disabilities.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of DHC to ensure meaningful access to the Housing Programs and their activities by persons with limited English proficiency (LEP).

PART I: NON-DISCRIMINATION

2.1.A OVERVIEW

DHC will treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. DHC will not discriminate in housing or services on the basis of race, color, religion, sex, national origin, ancestry, age, familial status, handicap and disability, marital status, gender identity, or sexual orientation (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.

DHC will comply fully with all federal, state, and local non-discrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964.
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988).
- Executive Order 11063.
- Section 504 of the Rehabilitation Act of 1973.
- The Age Discrimination Act of 1975.

- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern).
- The Violence Against Women Act (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.
- Any applicable state laws or local ordinances; and
- Any federal, state, or local legislation protecting individual rights of tenants, or applicant s.

In applying conflicting federal, state, or local laws, the federal law shall prevail.

2.1.B NON-DISCRIMINATION

DHC will not use any of the protected class factors, unless permitted under the applicable regulations or laws, to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the Housing 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 Programs.
- Treat a person differently in determining eligibility or other requirements for admission into a Housing Program.
- Steer an 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 Programs.
- 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.

1. Providing Information to Families and Owners

DHC will take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, DHC will provide information to HCV Program families about the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. To further its commitment to

comply with applicable civil rights laws, DHC will provide information to HCV voucher holders regarding discrimination and any recourse available to them if they are victims of discrimination. Such information shall be made available during the family briefing session. Furthermore, DHC will advise all families at the briefing to report suspected discrimination to DHC and HUD.

The Housing Assistance Payments (HAP) Contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, ancestry, age, familial status, handicap, disability, marital status, gender identity, or sexual orientation in connection with the HAP Contract.

2. Discrimination Complaints

Applicants or participants who believe that they have been subject to unlawful discrimination may notify DHC either orally or in writing. DHC will attempt to remedy discrimination complaints made against DHC. DHC will provide contact information to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

2.2.A. OVERVIEW

DHC will ensure that persons with disabilities have full access to DHC's programs and services. Families will be informed at briefings and during the annual re-examination of the family of their rights under Section 504.

DHC will ask all applicants and participants if they require any type of accommodations, in writing, on eligibility and continued eligibility documents, and on any notices of adverse action by DHC, by including the following language:

> "If you or anyone in your family is a person with disabilities and you require a specific accommodation in order to fully utilize our programs or services, please contact DHC."

DHC shall verify, on an annual basis, the continuing need of a participant for any granted accommodation.

1. Illegal Inquiries (24 CFR § 100.202)

The Fair Housing Act makes it unlawful for a housing provider to:

- Ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability; or
- Ask about the nature or severity of a disability of such persons.

Except as otherwise provided in 24 CFR 8.21 (c)(1), 8.24 (a), 8.25 and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because DHC's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information will be displayed in locations throughout DHC's office in such a manner as to be easily readable from a wheelchair. DHC offices will be accessible to persons with disabilities.

2.2.B. DEFINITION OF REASONABLE ACCOMMODATION

1. Verification of eligibility for DHC programs and benefits for persons with disabilities.

DHC will verify that an applicant qualifies as a person with a disability before granting the $400 rent calculation deduction, disability expense allowance, or deduction for un- reimbursed medical expenses. Applicants and participants cannot be compelled to reveal that they have a disability; however, if they do not, they cannot receive any of the benefits that such status confers. DHC's policy is to ask all applicants whether they wish to claim disability status and/or require a specific accommodation to access DHC's programs and services.

2. Verification of disability and need for requested reasonable accommodation(s).

To verify that an applicant is a person with a disability, DHC staff should first check to see whether the applicant is under age 62 and receives either Social Security Disability Income (SSDI) or Supplemental Security Income (SSI). Receipt of such disability income is sufficient verification that an individual qualifies as a person with a disability. However, individuals with disabilities who do not receive SSDI, or SSI may still qualify as a person with a disability under the statutory definitions of disability. In these cases, the individual with a disability may need to provide supporting documentation.

If a person requests a reasonable accommodation, then DHC may need to verify that the person is a qualified individual with a disability and whether a requested accommodation is necessary to provide the individual with an equal opportunity to use or enjoy a dwelling unit, including the public and common areas. In doing so, DHC should only ask for information that is actually necessary to verify that the person has a disability and that there is a reasonable nexus between the individual's disability and the requested accommodation(s). **DHC is not permitted to inquire about the nature or severity of the person's disability.**

Further, DHC staff may never inquire about an individual's specific diagnosis or details of treatment. If DHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment and/or information regarding the nature or severity of the person's disability, DHC will immediately dispose of this confidential information; this information is

not to be maintained in the individual's file. DHC should not request an applicant's or participant's medical records, nor should DHC require that applicants or participants submit to physical examinations or medical tests as a condition of admission or continued program participation.

3. Reasonable Modification to Existing Premises (24 CFR § 100.203)

Reasonable Modification applies to private owners participating in the HCV Programs. Under the Fair Housing Act, it is unlawful for an owner to refuse to permit a person with a disability, at their own expense, to make reasonable modifications of existing premises occupied or about to be occupied by a person with a disability if such modification may be necessary to afford the person with a disability full enjoyment of the premises.

Under certain circumstances the owner may require the tenant to pay funds into an escrow account to restore the interior of the unit to its original condition if the modification would interfere with the owner or next resident's full enjoyment of the premises.

4. Reasonable Accommodation (24 CFR § 100.204)

The requirement to provide a reasonable accommodation applies to private owners participating in Housing Programs, PHA's and all housing providers that are recipients of federal financial assistance. PHA's are also covered under Section 504. The Fair Housing Act makes it unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

5. Definition Of Reasonable Accommodation

A person with a disability may require a reasonable accommodation in order to have equal access to the Housing Programs. The types of reasonable accommodations DHC can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

Federal regulations stipulate that request for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for DHC 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 DHC's operations.

6. Types of Reasonable Accommodations

When warranted, DHC will modify normal procedures to accommodate the needs of a person with disabilities.

Examples include:

- Permitting applications and re-examinations to be completed by mail or other means.
- Conducting home visits.
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside DHC range) if DHC determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.
- Approving the leasing of a unit from a relative to provide reasonable accommodation for persons with disabilities. This provision does not apply to shared housing. [See 24 CFR §§ 982.306(d), 982.615 (b) (3)].
- 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 DHC staff.
- Displaying posters and other housing information in locations throughout DHC's office in such a manner as to be easily readable from a wheelchair.
- A utility allowance that is higher than the applicable amount on the utility allowance schedule. DHC will consider requests to approve a modified utility allowance up to twenty percent (20%) over the published and approved utility allowance because of additional equipment that uses additional consumption as verified by engineering studies, which the participant must provide at their expense.
- Allowing exception rents for determining rent reasonableness.

2.2.C. REQUEST FOR AN ACCOMODATION

DHC will encourage the family to make its request in writing using a reasonable accommodation request form. However, DHC will consider the request any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. A verbal request shall be documented in the applicant’s or the participant’s file.

The family must explain what accommodation is needed to provide the person with the disability full access to DHC’s programs and services. If the need for the accommodation is not readily apparent or known to DHC, the family must explain the relationship between the requested accommodation and the

disability. There must be an identifiable and/or verifiable relationship, or nexus, between the requested accommodation and the individual's disability.

1. Verification of Disability

Before providing an accommodation, DHC must determine that the person meets the definition of a person with a disability, and that the accommodation will allow the family access to DHC's programs and services. If a person's disability is obvious or otherwise known to DHC, and if the need for the requested accommodation is also readily apparent or known, no further verification is required.

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to DHC, DHC will 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, DHC will follow the verification policies provided in this Admin Plan. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

> Third-party verification will 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.

DHC will request only information that is necessary to evaluate the disability-related need for the accommodation. **DHC shall not inquire about the nature or extent of any disability.**

DHC will deny any request for a reasonable accommodation that cannot be verified or where no nexus between the requested accommodation and the disability exists.

2.2.D. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

DHC will approve a request for an accommodation if the following three (3) conditions are met:

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

Requests for accommodations will be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of DHC 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, DHC is to enter into discussion and negotiation with the family, request more information from the family, or require the family to sign a consent form so that DHC may verify the need for the requested accommodation.

After a request for an accommodation is presented, DHC will respond, in writing, within 20 business days after the response has been received from the source verifying the need for the reasonable accommodation. If DHC denies a request for an accommodation because it is not reasonable, i.e., it would impose an undue financial and administrative burden or fundamentally alter the nature of DHC's HCV operations, DHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV Program and without imposing an undue financial and administrative burden. DHC will review alternative methods to address the reasonable accommodation request.

If DHC and the family have failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, DHC will notify the family, in writing, of its determination within 20 business days from the date of the most recent discussion or communication with the family.

2.2.E. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype) communication will be available. To meet the needs of persons with vision impairments, one-on-one assistance will be provided, upon request. Alternative accommodations may also be used.

Examples of alternative forms of accommodation include, but are not limited to, sign language interpretation or having a third-party representative such as a friend, relative or advocate, named by the applicant or participant, to receive, interpret and explain materials and be present at all meetings.

2.2.F. PHYSICAL ACCESSIBILITY

DHC will comply with the laws and regulations pertaining to physical accessibility. When issuing a voucher to a family that includes an individual with disabilities, DHC will include a current list of available

accessible units known to DHC and will assist the family in locating an available accessible unit, if necessary.

2.2.G. DENIAL OR TERMINATION OF ASSISTANCE

DHC's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR982.552 (2) (iv)]. When applicants with disabilities are denied assistance, the notice of denial will inform them of their right to an informal review. In addition, the notice will 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 will inform them of their right to an informal hearing and reasonable accommodation to participate in the informal hearing process.

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

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2.3.A OVERVIEW

DHC will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Limited English Proficiency Persons (LEP Persons). LEP Persons are 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 Admin Plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP Persons, DHC will balance the following four (4) factors: (1) the number or proportion of LEP Persons eligible to be

served or likely to be encountered by the HCV Program; (2) the frequency with which LEP Persons come into contact with the HCV Program; (3) the nature and importance of the program, activity, or service provided by the HCV Program to people's lives; and

(4) the resources available to DHC and costs. Balancing these four (4) factors will ensure meaningful access by LEP Persons to critical services while not imposing undue burdens on DHC.

2.3.B ORAL INTERPRETATION

In a hearing, or situations in which health, safety, or access to important benefits and services are at stake, DHC will offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP Person.

DHC will analyze the various kinds of contacts it has with applicants, participants, and landlords, to assess language needs and decide what reasonable steps should be taken related to LEP Persons.

Where LEP Persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by DHC. Although, it is in the best interest of DHC and the family to have an outside third-party interpreter, the interpreter may be a family member or friend.

2.3.C WRITTEN TRANSLATION

DHC will provide written translations of vital documents for each eligible LEP language, as appropriate. DHC will use the written documents supplied by HUD, whenever possible. All documents will be clearly marked “For Informational Purposes Only”.

All documents that will be executed for the file and program requirements will be in English.

2.3.D IMPLEMENTATION PLAN

If after completing the four-factor analysis DHC determines that it is not necessary to develop a Language Access Plan (LAP), the absence of a written plan will not obviate the underlying obligation to ensure meaningful access by LEP Persons to the HVC Program and services. In the absence of a LAP, DHC will devise alternative ways to provide meaningful access.

2.3.E AFFIRMATIVELY FURTHERING FAIR HOUSING

DHC will implement procedures to expand housing opportunities in areas that do not have undue concentrations of poverty and provides families with greater housing options.

DHC promotes the de-concentration of poverty.

DHC certifies that its Admin Plan does not include a residency preference for selection of families to participate in its HCV Program.

DHC may maintain and/or increase HCV Program lease-up rates by establishing payment standards that will enable families to rent throughout DHC's jurisdiction. DHC may with HUD approval, utilize up to 120% of the fair market rents, as applicable, to allow families to select units in low-poverty or non-minority areas.

2.3.F VIOLENCE AGAINST WOMEN ACT PROTECTIONS

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis that the applicant is or have been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. VAWA does not limit DHC's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance.

2.3.G PROHIBITION AGAINST TERMINATION OF ASSISTANCE RELATED TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT

Criminal activity directly relating to domestic violence, dating violence, stalking, or human trafficking, engaged in by a member of a participant's household or any affiliated individual will not be the basis for termination of assistance, tenancy, or occupancy rights if the participant or an immediate member of the participant's family is the victim or threatened victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault stalking, or human trafficking will not be construed either as serious or repeated violations of the program obligations by the victim of such violence or as a good cause for terminating assistance.

Notwithstanding the foregoing, DHC may exercise its authority to, remove, terminate occupancy rights, or terminate assistance to any individual who is a household member or lawful occupant and who engages in criminal acts of physical violence against family members or others, without removing/terminating the assistance to, or otherwise penalizing the victim of such violence. DHC retains its authority to terminate the assistance of any household member if DHC concludes that there is an actual and imminent threat to other residents or those employed at or providing services to the property if the participant/household member is not evicted or terminated from assistance.

CHAPTER 3

ELIGIBILITY

INTRODUCTION

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

This chapter contains three parts:

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

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, ineligible students, and family consent. Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct, e.g., criminal activity that can cause DHC to deny assistance as well as the asset limitation for HCV.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3.1.A. FAMILIES AND HOUSEHOLD

1. Family Defined

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. The term "family" includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

(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.

Each family will identify the individuals to be included in the family at the time of initial eligibility screening and will update this information if the family's composition changes.

Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home as identified by court order, not to exceed 180 days, and is not intended to artificially enlarge the space available for other family members.

Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size, but not considered family members for determining income limit.

2. Household

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

3. Head of Household

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

The family may designate any eligible adult family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under Michigan law may be designated as head of household.

4. Spouse, Co-head, and Other Adult

Spouse means the marriage partner of the head of household. Michigan law does not recognize common law marriages. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under Michigan law may be designated as a spouse.

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

A family may have a spouse or co-head, but not both.

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

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

5. Dependent

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

A dependent is a family member who is under 18 or a person over 18 who is a person with a disability as defined by HUD in 24 CFR 5.603 or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co- head, foster children/, foster adults and live-in aides.

6. Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 51 percent or more of the time. Custody shall be determined by school and/or tax records.

When more than one applicant or participant family is claiming the same dependent as a family member, the family with primary custody at the time of the initial examination or re-examination will be able to claim the dependent. If there is a dispute about which family should claim the dependent, DHC will make the determination based on available documents such as the address listed in the school records of a school-age child or based upon a divorce decree and/or child custody order or an IRS return showing which family has claimed the child.

7. Full-Time Student

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

8. VAWA Self- Petitioner

VAWA self-petitioners are those who claim to be victims of battery or extreme cruelty. VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, stalking or human trafficking.

3.1.B. FAMILY BREAK-UP AND REMAINING MEMBER OF PARTICIPANT FAMILY

1. Family Break-up

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open. When both parents are on the waiting list and both are trying to claim a child, the parent whose address is listed in the most recent school records will be allowed to claim the child as dependent.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. In the absence of a judicial decision, or an agreement among the original family members, DHC will determine which family will continue to receive assistance taking into consideration the following factors:

(3) the interest of any minor children, including custody arrangements.
(4)the interest of any ill, elderly, near elderly, or disabled family members.
(5)the relationships or custody arrangements.
(6)school records.
(7)any possible risks to family members as a result of domestic violence or criminal activity; and
(8) the recommendations of social service professionals.

Documentation of these factors is the responsibility of the applicant families. If neither family provides the documentation, both may be denied placement on the waiting list or continued assistance.

2. Remaining Member of a Participant Family

A family includes the remaining member of a participant family, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family. If minors or legally incapacitated adults are the only remaining members of a participant family and there is no DHC approved family member able to assume the responsibilities of the head of household, a legally appointed guardian may assume the voucher so long as they meet the criteria to receive the voucher.

3. Caregiver for Child

DHC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance.

If neither a parent nor a DHC approved designated guardian remains in a unit, DHC will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caregiver will not be considered a family member until a determination of custody or legal guardianship is established through the court. Caregiver must provide legal documentation supporting upcoming court dates. Annually, the caregiver will be required to recertify current guardianship.
- At any time that legal custody or legal guardianship has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. Once all minor children are no longer remaining with the caregiver and did not take possession of the voucher, the voucher will expire within 180 days of the last child leaving the subsidized unit.
- During any period that a caregiver is considered a visitor, the income of the caregiver is not counted in annual income and the caregiver does not qualify the family for any deductions from income. DHC will not approve an increase to the voucher size based upon the caregiver's household size.

If the head of household returns to the unit, the caregiver must be removed from the household within 60 days.

3.1.C. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

1. Elderly Persons

An elderly person is a person who is at least 62 years old.

2. Near-Elderly Persons

A near-elderly person is a person who is at least 50 years old but below the age of 62.

3. Elderly Family

An elderly family is one whose head, co-head, spouse, or sole member is a person who is at least 62 years of age.

4. Near Elderly Family

Near elderly family means a family whose head (including co-head), spouse or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years

of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62.

3.1.D. PERSONS WITH DISABILITIES AND DISABLED FAMILY

1. Persons with Disabilities

Special rules apply to persons with disabilities and to any family whose head of household, spouse, or co-head is a person with disabilities.

2. Disabled Family

A *disabled family* is one whose, head, co-head, spouse, or sole member is a person with a disability.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent DHC from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

3. Mainstream Disabled

The Mainstream Disabled Voucher qualification is for non-elderly persons (at eligibility a person 18 years of age or older and less than 62 years of age) with disabilities as defined in 42 U.S.C. 423, is determined, pursuant to HUD regulations, to have 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 such a nature that the ability to live independently could be improved by more suitable housing conditions; or has a developmental disability as defined in 42 U.S.C. 6001) who is transitioning out of institutional or other segregated settings, at serious risk of institutionalization, currently experiencing homelessness, previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project.

3.1.E. GUESTS

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 so consent.

A guest can remain in the assisted unit no longer than a total of 30 consecutive calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, who are not included as a family member because they live outside of the assisted household more than

51 percent of the time, i.e., more than 183 days, are not subject to the time limitations of guests as described above. The presence of visiting children will not increase the voucher subsidy.

A family may request an exception to this policy for valid reasons, e.g., care of a relative recovering from a medical procedure that is expected to last 30 consecutive days. A written request must be submitted by the family with the landlord's express, written consent and an approval granted by DHC for any stay not to exceed 60 days. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

When determining whether a person is a guest or a household member, DHC will consider, among other things, statements from neighbors, family members, the landlord, DHS workers, and copies of police reports or other relevant documentation. The absence of evidence of any other address will be considered verification that the person is a member of the household. Further, use of the unit address as the person's current residence for any purpose not explicitly temporary. Voter's registration, driver's license, vehicle registrations, etc. will be considered evidence of permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual is considered an unauthorized member of the household and the subsidy may be terminated.

3.1.F. FOSTER CHILDREN AND FOSTER ADULTS

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards or NSPIRE. (See Chapter 8.)

Children who are temporarily absent from the home as a result of placement in foster care will not decrease the voucher size of HCV Program participants. Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home as identified by court order, not to exceed 180 days, and is not intended to artificially enlarge the space available for other family members.

Foster adults are usually persons with disabilities, who are unable to live alone.
A foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the

family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

Foster children and foster adults who are living with an applicant or assisted family are considered household members but not family members. The income of foster children or foster adults is not counted in family annual income and foster children and foster adults do not qualify for the $480 dependent deduction.

3.1.G. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

Participants must notify DHC in writing at least 10 business days before leaving their unit if they are going to be absent from the unit for more than three consecutive weeks. The family must provide written notice to the owner and DHC if the unit will be vacant between three and six months. The notice must include the beginning and ending

dated of the vacancy. DHC's written approval is required for temporary absences in excess of three months. Each circumstance will be individually evaluated and authorized by DHC.

1. Definitions of Temporarily and Permanently Absent

An individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

2. Absent Students

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

The family will be required to substantiate the student has a separate household via third-party verification, i.e., lease, utility bills, income tax statements, or notarized statement.

3. Absence Due to Military Service

DHC supports families and dependents of military personnel (including reservists and guardsmen) who are called to active duty. DHC encourages private owners to be as lenient as responsibly possible to support these families. This includes a variety of situations when persons are called to active duty in the Armed Forces as a result of deployment. Specific actions that a DHC or private owner can undertake to support these military families include, but are not limited to:

(1) Allowing a suitable guardian to move into the assisted unit on a temporary basis to care for any dependents that the military person leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not to be counted in determining family income and the amount of rent the family pays based on family income.
(2) Careful consideration of the circumstances of any case involving delayed payment of rent by the family. Determine whether it is appropriate to accept a late payment.

To this end, DHC provides deployed military persons with special consideration related to their absence from the subsidized unit. DHC has adopted the following guidelines related to determining the status of household members absent due to military deployment:

1) DHC will consider an adult child who goes into the military and leaves the household temporarily absent if the deployment is 24 months or less. The adult child who goes into the military and leaves the household will be considered permanently absent if the deployment is 24 months or more.

2) In cases where a military member is a single head of household and is deployed for military duty, DHC will continue housing assistance payments to the owner on behalf of a military family, even though all members of the military family are temporarily absent from the assisted unit because a member of the assisted family has been called to active duty. However, program regulation at 24 CFR 982.312 permits family absence from the unit for no more than 180 consecutive days and DHC may not exceed this regulatory limit.
3) A military spouse is counted as a household member even though absent, and the spouse is not physically residing in the unit. Space will be provided for the spouse who will be absent due to military deployment. The military spouse is not considered to be absent from the household. Space will not be provided for other family members who are deployed in excess of 24 months for military service.

4) A family must request DHC approval for the return of adult family members that DHC has determined to be permanently absent due to military duty.

The family will be required to submit documentation to substantiate the military deployment and length of time the military family member is expected to be deployed.

4. Absences Due to Placement in Foster Care

The family will be required to submit documentation to substantiate the length of time the child is to be away from the home.

If the child is not ever expected to be returned to the home (permanent placement in foster care), the child will be removed from the family composition and the family's subsidy standard will be reduced accordingly at the next annual re-examination.

If the agency indicates that it is unknown whether the child will be returned to the home, the child will remain a part of the family composition for a maximum of 180 days and the family's subsidy standard will be reduced accordingly at the next annual re-examination. Failure by the family to report the absence of the child may result in termination from the HCV Program. Family composition will be reviewed at least annually.

If, as part of the family's obligations to return custody, the court requires appropriate bedrooms for the return of the children to the household, DHC shall utilize the court order to determine subsidy standards.

5. Absent Head of Household, Spouse, or Co-Head

DHC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance.

If neither a parent nor a DHC approved designated guardian remains in a unit, DHC will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caregiver will not be considered a family member until a determination of custody or legal guardianship is established through the court. The caregiver must provide legal documentation supporting upcoming court dates.
- At any time that custody or guardianship legally has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child

upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. Once all minor children are no longer remaining with the caregiver and did not take possession of the voucher, the voucher will expire within 180 days of the last child leaving the subsidized unit.

- During any period that a caregiver is considered a visitor, the income of the caregiver is not counted in annual income and the caregiver does not qualify the family for any deductions from income. DHC will not approve an increase to the voucher size based upon the caregiver's household size.

If the head of household returns to the unit, the caregiver must be removed from the household within 60 days.

6. All Members Absent from Household

If all members of the household are absent for thirty (30) consecutive days, but have not moved from the unit, and DHC has determined the unit to be abandoned, assistance will be terminated. In order to determine if the family is absent from the unit, DHC may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, statement made by the participant or family member, perform inspections to the unit, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth later in this Admin Plan. Returned mail shall be just caused to make the determination that the unit has been abandoned. Termination of assistance shall occur the last day of the month in which DHC determines the unit to be abandoned.

7. Absent Single-Family Household Member

When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than 180 days, the assistance will be terminated. If medical professional documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated.
Documentation from a nursing home or medical facility may be used to determine dates of absences.

8. Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted. The voucher size may be changed accordingly to reflect the member's removal.

9. Absent due to death

HAP payments must stop at the end of the month that the death occurs for a single member household and a single member household with a live-in aide.

10. Absent due to incarceration

Incarceration for more than 120 consecutive days defines a sole member, or any household member, as permanently absent from the unit.

DHC will consider the opportunity to return to the contract unit following incarceration based on the following factors:

- Criminal Offense
- Probation activity and status remains favorable Relationship to Head of Household, Spouse, or child
- Relationship to minor children if voucher assistance followed the children to a custodial relationship due to incarceration
- Owner in willing to allow member to be added to the lease Voucher will not be available for transfer for five years

DHC will allow individuals who are absent from the housing unit due to pre-trial incarceration, for those sentenced to alternative to incarceration programs, community service or house arrest to remain on the voucher until sentencing concludes.

11. Return of Permanently Absent Family Members

DHC will not approve the return of permanently absent family members except in the case of court action, release from hospitalization, or return of members absent due to military duty.

3.1.H. LIVE-IN AIDE

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

DHC will approve a live-in aide if needed as a reasonable accommodation to make the HCV Program accessible to and usable by the family member with disabilities.

A live-in aide may only reside in the unit with the prior, written approval of DHC and the owner. Written verification will be required initially and on an annual basis from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker regarding the need for a live-in aide. The verification will specifically state that a live-in aide is essential for the daily care of the family member who is elderly, near elderly or disabled.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a participant family or have any rights to the HCV program.

The approval of a live-in aide shall increase the maximum permitted voucher size by 1- bedroom to accommodate the need for a live-in aide. The live-in aide's family members may also reside in the unit with DHC and the owner's prior, written approval. The presence of the live-in aide's family members must not overcrowd the unit. In the instance that the live-in aide's family size will overcrowd the unit, the live-In aide will be denied. (See Chapter 8) DHC will not increase the voucher size to accommodate the live-aide's additional family members.

A live-in aide is a member of the household for live-in aide purposes only and not a family member and does not qualify as a remaining family member. The income of the live-in aide is not considered in income calculations. A live-in aide must utilize the rental unit as his or her sole residence during the time he or she is certified as the participant's live-in aide; and must comply with all citizenship requirements. DHC will document the following annually or when there is a change in live-in aides. If the Live-in Aide was approved for one year, a new request for reasonable accommodation must be submitted by the family and approved at the next reexamination. If the request for reasonable accommodation for a live-in aide was approved on a permanent basis, DHC will verify that the live-in aide is identified on the household declaration.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care,

(2) would not be living in the unit except to provide the necessary supportive services and (3) is not working full-time outside of the home.

DHC will not approve a particular person as a live-in aide, and may withdraw such approval if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program, within the last five years.

- The person has violated any family obligations under the program as published under 24 CFR 982.551, within the last five years.
- The person commits drug-related criminal activity or violent criminal activity.
- The person has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- The person has been evicted from any federally subsidized housing program for any reason within the past five years.
- The person has been identified as someone subject to lifetime registration on a state sex offender registry.
- The person currently owes rent or other amounts to DHC or to another PHA in connection with federally assisted housing.
- The person fails to provide documentation to permit DHC to conduct the required screening; and/or
- If the live-in aide's family size will overcrowd the unit, the live-in aide will be denied.

After receiving a request and receipt of all documents required to approve a live-in aide, DHC will screen the live-in aide and upon final determination will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3.2.A. INCOME ELIGIBILITY AND TARGETING

1. Income Limits

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

Definitions of the Income Limits

- ***Low-income family*** is a family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- ***Very low-income family.*** A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- ***Extremely low-income family*** (ELI) is very-low-income families whose income does not exceed the higher of 30% of the area median income or the federal poverty level

Using Income Limits for Eligibility

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size.

Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

In order to be income eligible, an applicant family must be one of the following:

- A Very-Low Income Family.
- A low-income family that is ‘‘continuously assisted’’ under the 1937 Housing Act.
- A low-income family that meets additional eligibility criteria specified in the DHC HCVP administrative plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA jurisdiction.
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D))
- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 24 CFR 248.101.
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
- For the Moderate Rehabilitation program, Very Low-Income and Low-Income families are eligible to both apply and be admitted to the program.

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 in any of the following categories:

- continuously assisted under the 1937 Housing Act. An applicant 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.
- physically displaced by rental rehabilitation activity under 24 CFR Part 511
- non-purchasing family residing in a HOPE 1 or HOPE 2 project or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173

- displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165
- non-purchasing family residing in a project subject to a resident homeownership program

To determine if the family is income eligible, DHC will compare the annual income of the family to the applicable income limit for the family's size. Families whose annual income exceeds the income limit will be denied admission. Income limits are used for eligibility only at admission.

For initial lease-up, portability families must be within the applicable income limit for the jurisdiction in which they want to live.

2. Using Income Limits for Targeting

At least 75% of the families admitted to DHC's HCV Program during a DHC fiscal year must be extremely low-income families. An extremely low-income family is one whose annual income does not exceed 30% of the area median income.

DHC will monitor admissions to the HCV Program throughout the fiscal year. If extremely low-income families make up less than 75% of admissions, DHC will give priority to extremely low-income families until extremely low-income admissions again make up 75% of admissions.

3.2.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

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

1. Declaration

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible non-citizens. For citizens, nationals, and eligible non- citizens the declaration will be signed personally by the head of household, spouse, co- head, and any other family member 18 or older, and by a parent or guardian for minors. The family will identify in writing any family members who elect not to contend their immigration status (see Ineligible Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

2. U.S. Citizens and Nationals

Family members who declare citizenship or national status will be required to provide additional documentation such as a birth certificate or other legal document. DHC may also request additional documentation of their status, such as a passport, immigration cards, valid identification, and the retrieval of information from S.A.V.E.

3. Eligible Non-citizens

In addition to providing a signed declaration, those declaring eligible non-citizen status will sign a verification consent form and cooperate with DHC efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD- funded assistance.

Lawful participants of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

4. Ineligible Non-citizens

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on non-contending family members listing, signed by the head

of household, spouse, or co-head, regardless of citizenship status, indicating their ineligible immigration status. DHC is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited by federal regulation. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for pro-rated assistance as a mixed family.

5. Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered mixed families. Such

families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are pro-rated, and Chapter 16 for a discussion of informal review/hearing procedures.

6. Ineligible Families

DHC will not provide assistance to a family before the verification of citizenship status of at least one family member. When DHC determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 30 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for pro-ration of assistance and will advise the family of its right to request an appeal to the USCIS or to request an informal review with DHC. The informal review with DHC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice will also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal review process. Informal review procedures are contained in Chapter 16.

7. Timeframe for Determination of Citizenship Status

DHC will verify the status of applicants at the time other eligibility factors are determined. For new members joining the assisted family, DHC will verify citizenship status at the time they are added to the household.

If an individual qualifies for a time extension for the submission of required documents, DHC will grant such an extension for no more than 30 days.

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

3.2.C. SOCIAL SECURITY NUMBERS

Applicants and participants, including each member of the household, are required to disclose his/her assigned social security number (SSN) except those individuals who do not contend to have eligible immigration status. These individuals in most instances would not be eligible for an SSN.

If a family member, who is required to execute a certification, is less than 18 years old, the certification will be executed by the individual's parent or guardian. Assistance -may not be provided to a family until

all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the new member's SSN documentation will be submitted by the family at the time they are added to the household. If any member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled re-examination. New members being added to the household must provide social security documentation at the time of submission. If the requested documentation is not provided, the person will not be added to the household.

Within the six-month period prior to the date of voucher issuance, the applicant family may become a participant, so long as the required Social Security verification documents are provided to DHC within 90 calendar days from the effective date of the Housing Assistance Payment (HAP) Contract. DHC shall grant an extension of one additional 90- day period if DHC determines the applicant's failure to comply was due to circumstances that could not have been reasonably foreseen and were outside the control of the applicant. If the family fails to produce the documentation required within the required time period, DHC may proceed to terminate the family from the program.

C.1 If the applicant family adopts a minor child or adds a foster child within the six- month period preceding their admission to the program, the child may be assigned an SSN however circumstances may make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion (90 days). The family will be granted one additional 90-day period to obtain the required documentation.

3.2.D. FAMILY CONSENT TO RELEASE OF INFORMATION

HUD requires each adult family member, and the head of household, spouse, or co-head, 18 years or older, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

DHC will deny admission to the program if any adult member of the applicant family fails to sign and submit the consent forms required to obtain information.

3.2.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

If a student enrolled at an institution of higher education is:

- under the age of 24
- is not a veteran

- is not married
- does not have a dependent child
- is not a person with disabilities receiving HCV assistance as of November 30, 2005?

The student's program eligibility will be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents will be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with DHC policy, the income of the student's parents will not be considered in determining the student's eligibility.

This requirement is limited to students who are seeking assistance on their own, separately from their parents.

1. Definitions

In determining whether and how the eligibility restrictions apply to a student, DHC will rely on the following definitions.

a. Dependent Child

In the context of the student eligibility restrictions, dependent child means: a dependent child whose parent is enrolled in an institution of higher education. The dependent child must be a member of the assisted family and cannot be the head of household, spouse, or co-head. Foster children and foster adults are not considered dependents.

b. Independent Student

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

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

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

  - Be at least 24 years old by December 31 of the award year for which aid is sought.
  - Be an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older.

- The individual is, or was immediately prior to age of 18, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- Be a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
- Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
- Be a graduate or professional student.
- Be married.
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
    - A local educational agency homeless liaison
    - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director,
    - A financial aid administrator

- The student was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax returns.
- The student provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the person providing the support and must be submitted even if no assistance is being provided.
- If DHC determined that an individual meets the definition of a vulnerable youth, such a determination is all that is required to determine the purpose is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

DHC will verify that a student meets the above criteria in accordance with the policies in Chapter 7.

c. Institution of Higher Education

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

d. Parents

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

e. Person with Disabilities

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

f. Veteran

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

g. Vulnerable Youth

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

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older.

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by the court of competent jurisdiction in the individual's state of legal residence.

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

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

2. Determining Student Eligibility

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

For any student who is subject to the 24 CFR 5.612 restrictions, DHC will:

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

If DHC determines that the student, the student's parents, if applicable, or the student's "family" is not eligible, DHC will deny assistance.

3.2.F. DETERMINING PARENTAL INCOME ELIGIBILITY

For any student who is subject to the 24 CFR 5.612 restrictions and who does not satisfy the definition of independent student in this section, DHC will determine the income eligibility of the student's parents as follows:

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

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

3.2.G. VAWA SELF-PETITIONER

DHC may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status. Self-petitioners can indicate that they are in satisfactory immigration status when applying for assistance.

Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance.

In order to qualify the non-citizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. Citizen or LPR and DHC must receive a petition (INS Form 1-360 or I-130 or INS Form 797)

Housing assistance and all other VAWA protections will be granted a self-petitioner throughout the verification process until final determination is made. If the final determination is to deny, DHC will notify the applicant timely and take all necessary actions to terminate voucher assistance.

PART III: SCREENING FOR ELIGIBILITY AND DENIAL OF ASSISTANCE

DHC conducts applicant screening to evaluate the eligibility of families who apply to the HCV program. A family that does not meet the eligibility criteria discussed in Parts I and II, will be denied assistance. Also, DHC may deny assistance based on screening of applicants certain types of current or past behaviors of family members. DHC will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine: 1) whether any member of the household is subject to a mandatory federal requirement of admission, and 2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility.

For any denial based on a household member's criminal record, DHC may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

3.3.A. DENIAL OF ASSISTANCE

Denial of assistance includes any of the following:

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

1. Prohibited Reasons for Denial of Assistance

DHC cannot deny assistance to the program based on any of the following criteria:

- Age, handicap, disability, familial status, race, color, religion, sex, national origin, marital status, gender identity, or sexual orientation. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)

- Where a family lives prior to admission to the program.
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside DHC's jurisdiction (See Chapter 10, Portability.)
- 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.
- The Violence Against Women Reauthorization Act of 2013 prohibits denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. Specifically, Section 606(4)(A) of VAWA 2013 adds the following provision to Section 8 of the U.S. Housing Act of 1937.

2. Screening for Criminal Record

DHC will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine: (1) whether any member of the household is subject to a mandatory federal requirement for denial of admission, and (2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility.

An online National Sex Offender check covering sex offender registries in all states is performed for all adult applicants. DHC may conduct a criminal history review at a national level (at no cost to the applicant).

For any denial based on a household member's criminal record, DHC may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

3. Federally Barred Admission

DHC is required by federal law to deny assistance to an applicant if any of the household members:

- Is subject to a lifetime registration requirement under a state sex offender registration program.
- Has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Has been evicted from federally assisted housing for drug-related criminal activity during the previous three years, except if one of the following occurred:

- The circumstances leading to the eviction no longer exist.
- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.
- DHC has evaluated the family's income and composition at the time of eviction

4. Other Criminal Records

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community using valid written criteria, applicable laws including fair housing laws, and applicable regulations. Except as mandated by federal law, no applicant for the HCV program will be automatically barred from receiving housing assistance because of his or her criminal background. Applicants whose conviction(s) do not suggest a significant level of risk will be deemed admissible to the program if otherwise eligible.

Applicants whose conviction(s) suggest a significant level of risk will be reviewed by DHC staff (Chief Operating Officer of Rental Assistance or designee) to assess, based on the totality of the circumstances including any information the applicant wishes to provide, whether the applicant should be admitted to the program or denied. DHC may, at its sole discretion, include expert testimony during the assessment.

CRITERIA FOR DECIDING TO DENY ASSISTANCE:

The Criminal Background Screening Criteria Grid generally applies to convictions. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. If an expunged conviction appears on a criminal background report, it will not be considered in the screening process. Attempts and conspiracies to commit a crime will be treated the same way as the primary crime. For example, an applicant with a conviction for attempted murder will be screened the same was as a person with a conviction for murder.

Crimes Against Persons		
Assault-Related Offenses General Definition: An unlawful attack by one person upon another.	7	3
Family-Related Offenses, Nonviolent General Definition: Unlawful, non-violent acts by a family member (or legal guardian) that threatens the physical, mental, or economic well-being morals of another family member that are not classifiable as other offenses, such as Assault, Incest and Statutory Rape etc.	5	3
Homicide-Related Offenses General Definition: The killing of one human being by another.		
Kidnapping/Abduction-Related Offenses General Definition: The unlawful seizure, transportation, and/or detention of a person against his/her will or of a minor without the consent of his/her custodial parent(s) or legal guardian.	7	3
Sex-Related Offenses, Forcible* General Definition: Any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will in instances where the victim is incapable of giving consent. (See below for sex offender registration requirements.)	7	3
Sex-Related Offenses, Non-forcible* General Definition: Unlawful, non-forcible sexual intercourse, excluding prostitution offenses.	5	3
All Other Person-Related Offenses General Definition: Any offense committed against another person which causes harm to a person which does not meet specific categories previously outlined as person-related offenses.	5	3
Crimes Against Property		
Arson-Related Offenses General Definition: To unlawfully and intentionally damage or attempt to damage any real or personal property by fire or incendiary device.	5	3
Manufacturing Methamphetamine in Federally Assisted Housing* General definition: Conviction for drug-related criminal activity for the production or manufacture of methamphetamine on the premises of Federally assisted housing.	**Lifetime ban**	**Lifetime ban**
Sex Offender Registrant*General Definition: Identification of a registration by the applicant as a registered sex offender in one or more jurisdictions covered by the search. (Note that requirements for registration vary by locale and may require the individual to actively register themselves by law in some states. Some states prohibit discrimination on the basis of registration as a sex offender.).	**Lifetime ban**	**Lifetime ban**
Weapons Law-Related Offenses General Definition: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.	**5**	**3**
Drug/Narcotic-Related Offenses: Manufacture or Distribution Indicated General Definition: The violation of laws prohibiting the production, distribution, or trafficking of certain controlled substances and the equipment or devices utilized in their preparation and/or use. Offenses within this category	**5**	**3**

5. Drug and Alcohol Abuse

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

DHC will screen applicants to determine whether any household member is currently engaging in the illegal use of a drug.

Currently engaged in the illegal use of drug means a person has engaged in the behavior recently enough (within 12 months) to justify a reasonable belief that there is continuing illegal drug use by a household member. DHC will not deny admission if the household member who is currently engaging in the abuse of alcohol is enrolled in a supervised rehabilitation program.

In determining reasonable cause or reasonable belief, DHC 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. DHC will also consider evidence from treatment providers or community-based organizations providing services to household members, self-admission, admission during testimony, or admissions or a police report. A record of arrest alone will not be used to determine reasonable cause or reasonable belief, unless DHC has sufficient evidence other than the fact of arrest that the individual engaged in the conduct within the past twelve months.

Currently engaged in is defined as any use of illegal drugs during the previous 12 months.

6. Grounds for Denial or Termination of Assistance

DHC may deny assistance to applicants or proposed additions to the family and terminate assistance for participants for violations of any of the following family responsibilities. The family must:

- Supply any information that DHC determines is necessary in the administration of the HCV Program, including submission of required evidence of citizenship or eligible immigration status. “Information” includes any requested certification, release, or documentation used for initial eligibility and for regularly scheduled re- examination or interim re-examination of family income and composition.
- Disclose and verify SSNs, sign, and submit consent forms for obtaining information.
- Supply true and complete information.
- Be responsible for housing quality standard (HQS) or NSPIRE damages and/or failed items
- caused by the family.

- Allow DHC to inspect the unit at reasonable times and after reasonable notice.
- Notify DHC and the owner, in writing, at least 30 days before vacating the unit or terminating the lease after the initial term of the lease.
- Provide DHC a copy of any owner eviction notices within ten (10) days from receipt of the notice.
- Use the dwelling unit for residence by the family. The unit must be the family's only place of residence.
- Request, in writing, from DHC, approval to add other family members, foster children, caregiver, or a live-in aide as a member of the household before moving them into the assisted unit.
- Report to DHC the birth, adoption, or court-awarded custody of a child, except for foster children, within ten (10) days of the change.
- Notify DHC, in writing, within ten (10) days if any family member no longer resides in the unit.
- Ensure that if the family engages in legal profit-making activities in the unit, that such activities are approved by the property owner and are incidental to the primary use of the unit by the family.
- Supply information or certification to verify that the family is living in the unit or relating to the family's absence from the unit. If the absence will be for more than 30 consecutive days, the family must notify DHC in writing within ten (10) days from their absence. If a family member is absent from the unit more than 180 days, the absent member will be terminated.
- Have a minimum of one household member who is a U.S. citizen, national, or has HUD defined eligible immigration status.
- Provide, except in cases of emergency, verification to DHC that they have made requests to the owner to resolve the issue and the owner has failed to do so before requesting a special NSPIRE OR HQS inspection.
- If any member of the family fails to sign and submit HUD or DHC required consent forms for obtaining information.
- If the household member is or was engaged in criminal activity that would be detrimental to the program or to the best interest of administration of the program by DHC
- If the family is under contract and 180 days have elapsed since DHC's last housing assistance payment (HAP) was made

3.3.B. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

1. Previous Behavior in Assisted Housing

DHC will not deny assistance to an otherwise eligible applicant family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or a Welfare-to-Work program.

DHC will deny assistance to an applicant family if:

- The family does not provide information that DHC determines is necessary in the administration of the HCV Program.
- The family does not provide complete and true information to DHC.
- Any family member has been evicted from, had program violations, or has seriously or repeatedly violated any lease terms from any federally assisted housing in the last five years. A family will be considered evicted if the family moves after a Judgment of Possession has been issued, whether or not physical enforcement of the order was necessary.
- Any family member is terminated for fraud at another PHA, and the effective date of the termination is less than five (5) years from the date of the eligibility meeting at DHC.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. If the family member resided in a unit under HAP contract or other federally assisted program and was terminated for program fraud, DHC will honor the terminating PHA's program policy. DHC will request that the PHA provide to DHC a statement of cause and a copy of the relevant program policy related to eligibility. If DHC has ever terminated assistance under the HCV Program or Moderate Rehabilitation Program for any member of the family for violation of family obligations within the past five years.
- The family owes rent or other amounts to DHC, another PHA, or an owner, in connection with HUD’s Housing Programs the Housing Choice Voucher Program, Moderate Rehabilitation Program, the Project-Based Voucher Program or the public housing program, unless the family repays the full amount of the debt before admission.
- If the family has not reimbursed DHC for amounts DHC 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 DHC the full amount of the debt before being selected from the waiting list.

- The family has breached the terms of a repayment agreement entered into with DHC or another PHA, unless the family repays the full amount of the debt covered in the repayment agreement before being selected from the waiting list.
- A family will be given the opportunity to pay the debt within 90 days of the eligibility interview. If the family fails to meet their obligation to repay the debt, the family will be denied assistance.
- A family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, or any other federal or state assisted program.
- A family member has engaged in or threatened violent or abusive behavior toward DHC personnel or agents.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years.

Abusive or violent behavior towards DHC personnel or agents 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.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a Possession Judgment has been issued, termination and denial of assistance is not mandatory. However, DHC will determine whether the family has committed serious or repeated violations of the lease on available evidence and may terminate or deny assistance, require that the household member who participated in or was responsible for the offense no longer reside in the unit or require the family to repay any debt owed. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the participant or guests.

Serious or repeated lease violations will include, but are not to be limited to, non- payment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity, including drug-related criminal activity.

2. Eligibility Factor - Evicted for Drug Related Criminal Activity

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

3.3.C. SCREENING

1. Screening for Suitability as a Tenant

DHC has no liability or responsibility to the owner for the family's behavior or suitability for tenancy.

DHC will not conduct additional screening to determine the applicant's suitability for tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. DHC will inform the owner that screening and selection for tenancy is the responsibility of the owner.

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

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

DHC will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information addressed in the previous paragraph, when requested of DHC, in writing, by the owner. DHC will not provide any additional information to the owner, such as tenancy history, criminal history, credit background, etc.

Based upon a complaint by an applicant, DHC may report an owner to HUD's Office of Fair Housing and Equal Opportunity or a local fair housing organization.

Owners who participate in the HCV program becomes subject to the Equal Access Rule when the owner executes a housing assistance payment (HAP) contract with DHC. The rule requires that the housing be open to all eligible individuals regardless of sexual orientation, gender identity or material status. The owner is also subject to applicable state and local fair housing laws prohibiting discrimination because of sexual orientation, gender identity and/or material status.

DHC may not disclose to the owner any confidential information provided to DHC by the family in response to DHC's request for documentation of domestic violence, dating violence, sexual assault stalking, or human trafficking, except at the written request or with the written consent of the individual providing the documentation.

3.3.D. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

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

First, assistance may not be provided to any family if the family's net assets exceed $100,000 (adjusted annually by HUD).

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

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

However, the real property restriction does not apply in the following circumstances:

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

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

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

  PHA Policy

  The PHA defines not sufficient for the size of the family as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

3.3.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

1. Evidence

DHC will consider all credible evidence in making admission decisions.

2. Consideration of Circumstances

HUD authorizes DHC to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B). The final decision on whether to admit a family, however, who fails to meet DHC's eligibility requirements, lies within DHC's discretion. DHC will consider the following factors before making its decision:

- The seriousness of the case, especially with respect to how it would affect other participants.
- 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.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

3. Removal of a Family Member's Name from the Application

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

4. Reasonable Accommodation

If the family includes a person with disabilities, DHC's decision concerning denial of admission is subject to consideration of a request for a reasonable accommodation.

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

3.3.F. NOTICE OF ELIGIBILITY OR DENIAL

1. Eligible for Assistance

If the family is eligible for assistance, DHC will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

The family will be notified of a decision to deny assistance in writing within 15 business days of the determination. If DHC proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, DHC must notify the head of household of the proposed action and will provide the head of household an opportunity to dispute the accuracy and relevance of the information before denial of admission.

Upon request, the subject of the record and the head of household will be provided a copy of the record.

The head of household will be given 10 business days to dispute the accuracy and relevance of the information. If the head of household does not contact DHC to dispute the information within that 10-day period, DHC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Chapter 20.

3.3.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND HUMAN TRAFFICKING

The Violence Against Women Act (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis or a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, engaged in by a member of an applicant's household or any affiliated individual. VAWA does not limit DHC's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance. See Chapter 19, Victims of Domestic Violence, Dating Violence and Stalking (VAWA).

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

3.3.H. HDHC ERRORS

If DHC makes a calculation error either at admission to the HCV Program, an annual re- examination, or during an interim re-examination, DHC will perform a correction to correct the error and no retroactive charge will be applied to the family.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or

ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General

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

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

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

(iii) is likely to continue indefinitely.

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

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

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

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

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

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

(4) Is regarded as having an impairment means:

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

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

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

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

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

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

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

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

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

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

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

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

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

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

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

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students' persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

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

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

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

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

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

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

(2) Institutions outside the United States

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

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

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

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

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

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

(B) Advisory panel

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

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

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

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

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

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of

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

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

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

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

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

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

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

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to

a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

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

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

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

(b) Proprietary institution of higher education

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

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

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

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

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

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

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

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

are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

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

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

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

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

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

CHAPTER 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

This chapter describes DHC policies for taking applications, managing the waiting list, and selecting families for voucher assistance. HUD regulations require all families have an equal opportunity to apply for and receive housing assistance. DHC is required to affirmatively further fair housing goals in the administration of the program. The policies outlined in this chapter are organized into three sections, as follows:

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

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

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

PART I: THE APPLICATION PROCESS

4.1.A APPLICATION PROCESS

The following options may be considered when opening the waiting list. A preliminary application (pre-application) is made available during as prescribed by DHC. Potential applicants must complete the pre-application. The following criteria will be used when selecting a method to open the waiting list:

- The number of applicants needed.
- The income level of applicants for income targeting purposes.
- Program integrity.
- Operational resources and efficiencies; and
- Costs.

The information on the pre-application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed, and all information is verified.

4.1.B ACCESSIBILITY OF THE APPLICATION PROCESS

1. Elderly and Disabled Populations

DHC will take a variety of steps to ensure that the application process is fully accessible to those people who might have difficulty complying with the standard DHC application process. DHC will review requests for Reasonable Accommodations provide for individuals with disabilities to be able to utilize the application process. Approval for Reasonable Accommodations will be based upon guidelines in Chapter 2, which provides a full discussion of DHC's policies related to providing reasonable accommodations for people with disabilities.

2. Limited English Proficiency

DHC will take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency. Chapter 2 provides a full discussion of DHC's policies related to ensuring access to people with limited English proficiency.

4.1.C PLACEMENT ON THE WAITING LIST

DHC will accept applications from families when a voucher waiting list is open. No applicant has a right or entitlement to be listed on any DHC waiting list, or to any particular position on any DHC waiting list.

1. Eligibility for Placement on the Waiting List

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility must be made when the family is selected from the waiting list and before issuance of the voucher. Applicants will be placed on the waiting list according to any preference(s) to which they indicate they qualify, and the date and time of their complete pre-application.

PART II: MANAGING THE WAITING LIST

In the case of disputes on eligibility/ineligibility criteria that are pending the outcome of legal proceedings, i.e., currently under appeal in a court of law, DHC will determine the family to be ineligible at that time. If the legal decision is rendered that the person did meet the eligibility factors, DHC shall restore the application to the original date and time and reinstate the applicant to any other preference factors that DHC has adopted. Reinstatement will occur within sixty (60) calendar days of the final court decision.

However, DHC requires that the family submit the legal documents within 30 calendar days of the court decision. If the family fails to submit proof of the court's decision within 60 calendars days of the decision,

the DHC will consider the matter closed and further review will not be made. If the legal decision is that the person did not meet the eligibility factors, there is no further action required by DHC.

4.2.A ORGANIZATION OF THE WAITING LIST

DHC's HCV, Mod-Rehab, and Project Based waiting lists are organized in such a manner to allow DHC to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this Admin Plan.

The waiting list at a minimum shall contain the following information for each applicant listed:

- Applicant full legal name
- Address
- Social Security Number
- Date of Birth
- Date and time of application submission
- Selection of any local preferences
- Estimated annual household income
- Racial or ethnic designation of the head of household
- Need for a reasonable accommodation
- Disability Status
- Homeless Status

DHC will maintain one HCV waiting lists for all jurisdictions it serves. DHC will not merge the HCV waiting list with any other waiting list it administers.

Local Preference for the HCV Program will not be applicable to the Mod-Rehab and the Project-Based Voucher Programs. Applications will be selected by the date and time of submission of the waitlist application. Applicants can view their waiting list status through the DHC Applicant portal.

A family that applies for assistance from the HCV program will be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher, moderate rehabilitation, or special programs (FUP, Mainstream)- program DHC operates if the other programs' waiting lists are open. A family's decision to apply for, receive, or refuse other housing assistance will not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

1. Random Number/Lottery Placement Method for the HCV Waiting List

All applications will be held until the date the waiting list closes. All applications received will be randomly numbered and the number entered on the application. For example, if 1,000 applications are received, the applications will be randomly numbered from 1 to 1,000.

DHC staff or a DHC designee will develop a random number table based on the number of applications received. A DHC executive level employee will review and approve the random number table. The random number in the table will be associated with the random number noted on each application. For example, if the random number on the application is 200 and the random table identifies 200 as number 1, the application with the number 200 will be the first application entered on the waiting list.

All applications will be re-numbered in accordance with the random number table for placement on the waiting list and placed on the waiting list according to the random number table and entered by date and time of entry. For example, the first application may be entered on June 1 at 8:00 am, and the second application entered on June 1 at 8:01 am, etc. This original date and time order will remain the same for each application regardless of local preferences.

4.2.B MODERATE REHABILITATION

The Moderate Rehabilitation Program ("Mod Rehab") is a site-based subsidy for privately owned apartment complexes. The program allows DHC to establish Housing Assistance Payment Contracts with the owner for specific units and the subsidy remains with the unit. Vacant units under contract must be rented to eligible families referred

from DHC's waiting list. If DHC is unable to refer a sufficient number of interested applicants from the waiting list to the owner within 30 days of the owner's notification to DHC of a vacancy, the owner may advertise or solicit applications and refer clients to DHC to determine eligibility.

DHC will develop and implement a Moderate Rehabilitation Program Procedures Guidebook to facilitate Mod Rehab management.

Owners of properties participating in Mod Rehab will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC. The owner's Tenant Selection Plan must include:

Project eligibility requirements:

- Project-specific requirements
- Income limits
- Procedures for accepting applications from the waitlist
- Procedures for applying any preferences
- Applicant screening criteria
- Required drug-related or criminal activity criteria.
- Other allowable screening criteria; and
- Procedures for rejecting ineligible applicants
- Occupancy standards

- Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur
- Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes
- Marketing Plan

4.2.C OPENING AND CLOSING WAITING LIST

1. Opening the Waiting List

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

DHC will announce the opening of the waiting list at least 10 business days before the date applications will first be accepted. If the list is only being opened for certain categories of families, this information will be contained in the notice. DHC will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Local papers of general circulation.
- Minority papers of general circulation.
- DHC's website.

This applies to the HCV Program, the Moderate Rehabilitation Program, and all other HCV-PBV programs administered by DHC.

2. Closing the Waiting List

DHC may close a waiting list if it has an adequate pool of families to use its available HCV funding. Alternatively, DHC may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria. The closing date of a waiting list may be announced at the same time the opening date is announced.

This applies to the HCV Program and all other HCV-PBV programs administered by DHC.

3. Family Unification Program (FUP)

The HCV waitlist will remain open to applicants meeting the eligibility criteria for the FUP administered by DHC. The FUP-eligible family or youth must be referred by a Public Child Welfare Agency (PCWA) in order to apply for this program.

A FUP-eligible family is a family that the PCWA has certified as a family for whom lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of- home care, or in the delay of discharge of a child, children, to the family from out of home care, and that DHC has determined is eligible for a Housing Choice Voucher.

A FUP-eligible youth is a youth who the PCWA has certified to be at least 18 years old and not more than 21 years old (has not reached his/her 22nd birthday) who left foster care at age 16 or older.

4. Mainstream Disabled Program (MSD)

The HCV waitlist will remain open to applicants meeting the eligibility criteria for the MSD program administered by DHC.

4.2.D FAMILY OUTREACH

DHC will conduct outreach, as necessary, to ensure DHC has a sufficient number of applicants on the waiting list to use the HCV resources allotted to DHC. DHC outreach efforts will be designed to inform families about the availability of assistance under the DHC voucher programs. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing sample application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

4.2.E REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform DHC of changes in contact information, including current residence, mailing address, and phone number, within 10 business days of the change. The family must also report any changes that might occur in their preference eligibility. The changes are to be completed through the DHC Applicant Portal. Failure to do so may result in the removal of the family from the waiting list.

4.2.F UPDATING THE WAITING LIST

Waiting lists may be updated to ensure that all applicants and applicant information is current and timely. To update the waiting list, DHC will send an update request, via first class mail, to each family on the waiting list to determine whether the family continues to be interested in the voucher program. This update request will be sent to the last address that DHC has on record for the family. The update request

will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response may be in writing and may be delivered by mail or other means as DHC prescribes within its notice to the applicant. Responses can also be completed through the DHC Applicant portal. Responses must be received by DHC not later than 10 business days from the date of DHC's update request. If the family fails to respond within 10 business days, the family's application will be removed from the waiting list without further notice, and the applicant will have no right to an informal review. If the notice is returned by the post office, the applicant will be removed from the waiting list without further notice, and the applicant will have no right to an informal review.

If a family is removed from the waiting list for failure to respond, the Chief Operating Officer of Rental Assistance, or designee, may reinstate the family if s/he determines the lack of response was due to DHC error or to circumstances beyond the family's

control. The family must offer specific and compelling documentation to substantiate its claim. If the applicant did not respond to DHC's request because of a family member's disability, DHC may reinstate the family on the waiting list if the disability is substantiated in accordance with the reasonable accommodation process established in Chapter 2.

In all cases, the family must make a written request to be reinstated to the list within sixty (60) calendar days of the date the family was removed from the list.

4.2.G REASONABLE ACCOMODATIONS

If requested as a reasonable accommodation for a person with a disability, an extension of 10 business days to respond to the update request may be granted upon review of the request in accordance with Chapter 2 of this Admin Plan.

4.2.H REMOVAL FROM THE WAITING LIST

If at any time an applicant family is on the waiting list, and DHC determines that the family is not eligible for assistance (see Chapter 3), the family must be removed from the waiting list.

If a family is removed from the waiting list because DHC has determined the family is not eligible for assistance, a notice must be sent to the family's address of record provided on the initial application or updated address as has been submitted by the family. The notice will state the reason(s) the family was removed from the waiting list and will inform the family if they are eligible to request an informal review and how to request such review regarding DHC's decision (see Chapter 16).

PART III: SELECTION FOR HCV ASSISTANCE

4.3.A OVERVIEW

As vouchers become available, families on the waiting list will be selected for assistance in accordance with the policies described in this part. The order in which families receive assistance from the waiting list depends on the selection method chosen by DHC and is impacted in part by any selection preferences that the family qualifies for.

The source of HCV funding also may affect the order in which families are selected from the waiting list.

DHC will maintain a clear record of all information required to verify that the family is selected from the waiting list according to DHC's selection policies.

4.3.B SELECTION AND HCV FUNDING SOURCES

1. Special Admissions

HUD may award funding for specifically named families living in specified types of units, e.g., a family that is displaced by demolition of public housing; a family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

If HUD awards DHC funding that is targeted for families living in specified units:

- DHC will use the assistance for eligible families living in these units; and
- DHC may admit such a family that is not already on DHC's waiting list, or without considering the family's current waiting list position.

DHC will maintain separate records of these admissions that demonstrate that the family was admitted with HUD-targeted assistance.

2. Selection Method

DHC will describe the method for selecting applicant families from the waiting list, including the system of admission preferences that DHC will use.

3. Local Preferences

DHC is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits DHC to establish other local preferences, at its discretion. Any local preferences established must be consistent with DHC's Admin Plan and the consolidated plan and must be based on local housing needs and priorities.

DHC will select families from the HCV Tenant Based Waiting List based on the following preferences using a point system:

- Families terminated from DHC's HCV program due to insufficient funding 50 Points
- Families displaced by a natural disaster or government action 30 Points
- Mainstream Disabled 25 Points

Verification of Preference

All preferences will be verified. For example, the preference associated with insufficient funding will be validated through DHC's termination records and notices. Persons claiming displacement by natural disaster or government action will have to provide acceptable government documentation such as FEMA status. Persons claiming MSD classification will be verified for specific program requirements.

The preferences identified below are unique in classification and require specific program referrals. The preference selection is also limited to specific number or annual allocation based on the classification.

The referral applicants with these preferences will be placed on program specific waiting lists with a priority (point) selection based on funding availability following an annual selection of 200 names from the DHC traditional HCV Tenant Based Waiting list.

DHC has established a point system to determine applicant selection based on the severity of housing need. Selection from the referral program waiting lists will be identified through the following point system:

- Displacement by DHC: 20 points
- VAWA Victims: 15 points
- Victims of Human Trafficking: 13 points
- Displaced Families with a Child(ren) Six of Younger with Elevated Blood Lead Levels: 12 points
- Homeless and Transitioning from Permanent Supportive Housing: 10 points

The selection of applicants will follow the order of date and time based on receipt of the completed referral. Based on the uniqueness of the programs and the referral requirement an applicant should be listed on one list. An applicant could be and will remain on the traditional HCV Tenant Based Waiting list.

Local Preference Related to the Mainstream Disabled Voucher Program (MSD Program)

The mainstream disabled program is a target funded program requiring a preference to the tenant-based voucher waiting list for 75 vouchers. A preference is available for up to 75 vouchers to families that include non-elderly, (persons 18 to under 62 years of age at contract) persons with disabilities. DHC will

provide an admission preference to MSD Program-eligible households that are in one or more of the following groups:

a. Transitioning out of institutional or other segregated settings.
b. At serious risk of institutionalization.
c. Currently experiencing Homelessness in Wayne and Macomb County.
d. Previously experienced homelessness and is a resident of permanent supportive housing or a rapid rehousing project in Wayne and Macomb County.
e. At risk of experiencing homelessness in Wayne and Macomb County.

A preference does not guarantee program eligibility.

DHC has established partnerships with the following four partners: The Out-Wayne Continuum of Care (Out-Wayne COC), the Detroit Continuum of Care (Detroit COC) the Macomb County Continuum of Care (Macomb COC) and The Information Center (TIC).

DHC will enter into an agreement with each of its partners. Each agreement will be established based on the population to be served. The terms and conditions of each agreement must be agreed to and signed by DHC's Executive Director. DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any federally protected class under fair housing laws.

The waitlist for this preference will never close.

Local Preference Related to Homelessness and Transitioning from Permanent Supportive Housing

DHC will provide housing assistance with up to 225 vouchers per year through the Housing Choice Voucher Program to eligible persons who are referred for assistance through formal agreements with partnering organizations. All applicants assisted in this category must apply with and be referred to DHC by an agency, organization, or consortia, that provides services to the homeless with which DHC has a formal agreement. Each agreement will be established based on the population to be served and the terms and conditions presented to and agreed upon by the Executive Director. DHC has the right to limit the number of partner organizations to insure administrative efficiency. DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any Federally protected class under fair housing laws.

In furtherance of its fight against homelessness, a local preference is available for families that "participate in a homeless program" or that are "transitioning from permanent supportive housing" and are referred to DHC by an organization with which DHC has a formal agreement. The waitlists for these categories will never close.

Local Preference – Displacement by DHC:

A resident who is displaced from a DHC-owned public housing property as a result of a failure of a building system, fire, flooding, environmental or other failure beyond DHC's control and where DHC has no

suitable, available DHC-owned public housing replacement unit will be eligible for a local preference to receive a voucher from the Housing Choice Voucher Program upon referral by DHC. The preference does not guarantee program eligibility. Applicants will not be referred if alternate public housing accommodations have been offered and refused by the resident. Referral is limited to events where the Executive Director has approved the use of the preference in

writing. The preference is limited to 50 vouchers annually. There will be a separate waitlist for this preference. The waitlist will never close.

Local Preference Related to VAWA Victims

DHC will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking who has either been referred by a partnering service agency, a consortium, the Director of DHC's Resident Services or is seeking an emergency transfer under VAWA from the DHC's public housing program when the public housing program cannot accommodate the transfer or other covered housing program operated by the DHC. DHC will provide housing assistance with up to 25 vouchers per year to eligible persons.

All applicants assisted in this category must apply with and be referred to DHC by an agency or partnering organization which DHC has a formal agreement. All applicants must complete the required certification and provide documentation required to support Domestic Violence, Sexual Assault, Dating Violence and Stalking (HUD form-5382, HUD form-5380) and Third-Party Documentation of Victim Status. During the application process the applicant must certify that the abuser will not reside in the household for any period of time unless the PHA gives prior written approval.

Un-emancipated minors would not be eligible to sign leases under HUD programs. DHC may consider contacting child welfare, child protective services, or law enforcements, when a minor claim to be a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. Guest, unassisted members and live-in aides of the family are ineligible for VAWA protections which are available only to tenants and participants. The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

DHC will not accept referrals from an agency, organization or consortia that deny its services to members of any Federally protected class under fair housing laws.

Local Preference Related to Victims of Human Trafficking

DHC will offer a preference to families who include victims of human trafficking which is the action of practice of illegally transporting people typically for the purposes of forced labor or commercial sexual exploitation.

DHC will provide up to 10 tenant-based vouchers per year for this preference. The preference does not guarantee eligibility for the HCVP. All families assisted under this preference must apply with and be referred to DHC by an organization with which DHC has a formal partnering agreement. All families must provide documentation of Human Trafficking victim status.

DHC will only accept referrals from an agency, organization, or consortia with which DHC has a formal agreement. The terms and conditions of the agreements will be based upon the population served. DHC has the right to limit the number of partner agencies, organizations, and consortia to ensure administrative efficiency.

DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any Federally protected class under fair housing laws

There will be a separate waitlist for this preference. The waitlist will never close.

Local Preference Related to Displaced Families with a child(ren) Six or Younger with Elevated Blood Lead Levels

DHC will offer a preference to families with a child(ren) six or younger who has elevated blood lead levels of 5 micrograms of lead per deciliter of blood as verified by the local Health Department where the families have been displaced from their permanent housing. The families must reside in DHC's HCVP jurisdiction which consists of Wayne, Oakland, Macomb, Lapeer, and St. Clair counties. The families must have been displaced due to lead exposure and the owner of the housing's inability to control the lead-based hazards.

DHC will provide up to 10 tenant-based vouchers per year for this preference through the HCVP. The preference does not guarantee eligibility in the HCVP.

All families must apply and be referred to DHC by the local Health Department or through the HUD-mandated Healthy Home Program. DHC will establish formal agreements. The terms and conditions of the agreements will be based upon the population served.

The waitlist for this category will never close.

4. Income Targeting Requirement

HUD requires that extremely low-income (ELI) families make up at least 75% of the

families admitted to the HCV Program during DHC's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, DHC may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act, as well as low-income or moderate-income families admitted to the program that are displaced as a

result of the pre-payment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes.

DHC will monitor progress in meeting the ELI requirement throughout the fiscal

year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income-targeting requirement is met. If there are not enough ELI families on the waiting list, DHC may conduct special outreach to attract ELI families to the program to meet the statutory requirements.

5. Order of Selection

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with DHC's hierarchy of preferences. Within each targeted funding or preference category, families will be selected according to the date and time their complete application is received by DHC or the random order as indicated in the Random Number/Lottery Placement Method for the HCV Waiting List selection.

Within the targeted funding or preference category documentation will be maintained by DHC as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so DHC does not have to ask the higher placed applicant each time targeted selections are made.

DHC is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list.

6. Notification of Selection

DHC will notify the family through any of the following methods, first class mail, email, telephone when it is selected from the waiting list. DHC may also send phone text messages to families as an advance notification. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview.
    - If the Interview is scheduled as a video meeting DHC will manage the process of arranging the media and format and attendees. DHC will address all reasonable accommodation needs and make technological equipment available if required.
- Who is required to attend the interview?
- Documents that are required at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation.

- Documentation to verify eligibility preferences claimed; and
    - Other documents and information as requested. All required documentation can be sent to DHC through the US Mail, fax, email or uploaded to the DHC Applicant portal.

If a first-class notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. DHC will keep a record of all phone calls, voice message and time/date of emails with no response. A notice of denial will be sent to the family's address of record, as well as to any known alternate address.

4.3.C THE ELIGIBILITY INTERVIEW

Being invited to attend an interview does not constitute admission to the program.

Families selected from the waiting list are required to participate in an eligibility interview. The head of household and all household members eighteen (18) and older should be present for the interview; exceptions may be made for military personnel and full-time students. Verification of information pertaining to adult members of the household not present at the interview must not begin until signed release forms are returned to DHC.

The interview will be conducted only if the head of household and ALL household members eighteen (18) and older provide appropriate current government issued, picture ID to document legal identity. Chapter 7 provides a discussion of proper documentation of legal identity. If the family representative does not provide the required documentation for proof of legal identity, the appointment may be rescheduled when the proper documents have been obtained. The appointment must be rescheduled within 30 calendar days.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing all required forms, providing required signatures, and submitting required documentation. If any materials are missing, DHC will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame plus any extensions, the family must be sent a notice of denial. (See Chapter 3). Extensions shall be for a time period not to exceed an additional 10 business days for the

family to provide required documents. Any additional extensions of this policy may be granted at the discretion of the Chief Operating Officer of Rental Assistance or designee.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. In all circumstances, if a family does not attend a scheduled interview, DHC will send another notification letter with a new interview appointment time. The notification process may include First Class Mail, email, telephone, and telephone text message advance notice. The second interview appointment will usually be scheduled within 10 business days of the initial appointment. Applicants who fail to attend two (2) scheduled interviews, or if the second notification letter is returned to DHC, the family will be removed from the waiting list without any further notification and without the right to an informal review.

4.3.D COMPLETING THE APPLICATION PROCESS

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

If DHC determines the family is ineligible, DHC will send written notification of the ineligibility determination within 15 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family if they have a right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list, e.g., targeted funding, extremely low-income, etc., the family will be returned to its original position on the waiting list. DHC will notify the family, in writing, that it has been returned to the waiting list, and will specify the reason(s). If DHC determines that the family is eligible to receive assistance, DHC will invite the family to attend a briefing in accordance with the policies in Chapter 5.

CHAPTER 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the HCV Program, DHC will ensure that the family fully understands the way the HCV Program operates and the family's obligations under the HCV Program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. The briefing will provide a broad description of owner and family responsibilities, DHC procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the HCV Program, including the benefits of moving outside areas of high poverty concentration. Once the family is fully informed of the HCV Program's requirements, DHC will issue the family a voucher. The voucher has no monetary value. The voucher includes the unit size that the family qualifies for based on DHC's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit

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

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

Part II: Subsidy Standards and Voucher Issuance. This part discusses DHC's standards for determining voucher size. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5.1.A. OVERVIEW

HUD regulations require DHC to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains DHC's procedures, and includes instructions on how to lease a unit. This part describes how 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.B. BRIEFING [24 CFR 982.301]

DHC will give the family a briefing and provide the family with a briefing packet containing written information about the HCV Program. Families may be briefed individually or in groups. At the briefing, DHC will ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2. DHC may conduct individual briefings for families with disabilities at their home, if other arrangements cannot be made, and if required as a reasonable accommodation.

The purpose of the briefing is to explain the documents in the Voucher Briefing Packet so that the family is fully informed about the HCV Program. This will enable the family to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

1. Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing. If the notice is returned by the post office, the applicant will be denied and removed from the waiting list. The head of household, co-head or spouse is required to attend the briefing. Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The second briefing will usually be rescheduled within 30 calendar days of the first date. DHC will notify the family of the date and time of the rescheduled briefing. Applicants who fail to attend two scheduled briefings, without DHC approval, will be denied assistance (see Chapter 3) and sent a notice of denial with no right to an informal review.

Families that attend group briefings and need individual assistance will be referred to an appropriate DHC staff person.

2. Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the HCV Program works.
- Family and owner responsibilities.
- Where the family can lease a unit, including renting a unit inside or outside DHC's jurisdiction.
- An explanation of portability. DHC will not discourage eligible families from moving under portability; and
- An explanation of the advantages of moving to areas outside of high-poverty concentrations.

When DHC-owned units are available for lease, DHC will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease and is not obligated to choose a DHC-owned unit. Units designated as public housing do not qualify for HCV assistance.

3. Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packets will comply with all HUD requirements. Documents and information provided in the briefing packet must include the following:

- The term of the voucher and DHC's policies on any extensions or suspensions of the term. If DHC 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 DHC determines the payment standard for a family, how DHC determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how DHC determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit including 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 DHC policy on providing information about families to prospective owners.
- DHC 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, including the pamphlet "Fair Housing: It's Your Right". DHC will also include a complaint form and information on how to complete it and information on how to report suspected discrimination and the phone numbers of the local fair housing agency and the HUD enforcement office.
- 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 DHC.
- The family's obligations under the HCV Program. The grounds on which DHC may terminate assistance for a participant family because of family action or failure to act.
- DHC informal hearing procedures including when DHC is required to offer a participant family the opportunity for an informal hearing and how to request the hearing.
- 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.

DHC may provide information on the Family Self-Sufficiency &Homeownership Programs.

- The form HUD-5380, Domestic Violence Certification form
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

5.1.C. FAMILY OBLIGATIONS

Obligations of the family are described in the HCV regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. When the family's unit is approved and the HAP Contract is executed, the family must meet those obligations in order to continue participating in the HCV Program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

1. Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify DHC of a change, notifying DHC of the request or change within 10 business days is considered prompt notice. When a family is required to provide notice to DHC, the notice must be in writing.

2. Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV Program:

- The family must supply any information that DHC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by DHC or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition in accordance with HUD requirements.
- The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information.
- All information supplied by the family must be true and complete.
- The family is responsible for a National Standards for the Physical Inspection of Real Estate (NSPIRE) or HQS breach caused by the family or a guest.

- The family must allow DHC to inspect the unit at reasonable times and after reasonable notice.
- The family may not commit any serious or repeated violation of the lease.
- The family must notify the owner and, at the same time, notify DHC before the family moves out of the unit or terminates the lease upon notice to the owner.
- The family must give DHC a copy of any owner eviction notices within 10 business days of receipt.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by DHC. The family must promptly inform DHC of the birth, adoption, or court-awarded custody of a child. The family must obtain owner and DHC approval to add a new member to the household.
- The family must notify DHC within 10 business days if any family member no longer resides in the unit.
- If the family does not request approval or DHC approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
- Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family and the family has the owner's written approval of the activities.
- The family must not sublease or let the unit.
- The family must not assign the lease or transfer the unit.
- The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the Housing Programs.
- The members of the family 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.
- Family members must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state, or local housing assistance program.
- The family must supply any information or certification requested by DHC to verify that the family is living in the unit, or relating to family absence from the unit, including any DHC-requested information or certification on the purposes of family absences.

- 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 assisted family, unless DHC has determined and has notified the owner and the family of such determination in writing, that approving rental of the unit, notwithstanding such relationship, would provide a reasonable accommodation for a family member who is a person with disabilities or the family is participating in the HCV Homeownership Program.

DHC will determine if a family has committed serious or repeated violations of the lease based on available evidence. Serious and repeated lease violations will include, but not be limited to, non-payment of rent, disturbance of neighbors, destruction of property, and living or housekeeping habits that cause damage to the unit or premises.

3. Other Family Obligations

In addition to the family obligations specified above:

- The family must pay utility bills and provide and maintain any appliances the owner is not required to provide under the lease. If the participant is responsible for paying any utilities, then the applicable utility must be in the name of an adult family member receiving assistance in the unit. If there is a change in the responsible party for paying the utility, then the responsible party must provide evidence to DHC's satisfaction that the utility is in the name of the responsible party. The Head of Household can provide evidence of a joint account (co-signor) if required by the utility company. The responsible party has 60 calendar days to provide evidence of the change.
- The family must comply with any repayment agreement entered with the landlord.
- The family must pay any amounts owed to DHC or other PHA.

4. Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify DHC of a change, notifying DHC of the request or change within 10 business days is considered timely notice. When a family is required to provide notice to DHC, the notice must be in writing.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5.2.A. OVERVIEW

When funding is available, DHC will issue vouchers to eligible applicants. DHC will establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size, also known as the voucher size, a particular family should receive, and the policies that govern making exceptions to those standards.

DHC also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

5.2.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

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

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

- The subsidy standards must provide for the smallest number of bedrooms (referring here to the subsidy) needed to house a family without overcrowding.
- They must be consistent with space requirements under NSPIRE or HQS, which require at least one living/sleeping room for every two persons.
- They must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

Any live-in aide, approved by the DHC to reside in the unit to care for a family member who is disabled or is at least 50 years of age, must be counted in determining the voucher unit size. DHC will give a participant up to six months to identify an eligible Live-In-Aide before reversing the decision.

Persons aged six (6) or older of the same gender will generally be assigned one bedroom. Non-parental adults (age 18) may not be required to share a room with children. Adults of the same gender may be required to share a room within the following guidelines:

- Live-in aides will be provided a separate bedroom if the assisted unit is the aide's primary residence. No additional bedrooms will be provided for the aide 's family.
- Additional family members of the live-in aide may not be approved if it would result in the violation of NSPIRE OR HQS.
- A single person will be allocated a one-bedroom subsidy.
- Head of household and spouse will be allocated one bedroom.

- Head of household and other adult sharing a parental relationship will be allocated one bedroom.
- Two children, regardless of gender, under the age of six (6) will be allocated one bedroom
- Non-head of household parent with a child under the age of 6 will be allocated a bedroom.

DHC will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household (Minimum Number)	Persons in Household (Maximum Number)
Efficiency	1	1
1 Bedroom	1	3
2 Bedroom	2	4
3 Bedroom	3	7
4 Bedroom	5	9
5 Bedroom	7	11
6 Bedroom	10	13

5.2.C. VOUCHER ISSUANCE/PREFERRED UNIT SIZE

A participant may select a smaller size unit than the size listed on the voucher. If so, the payment standard for the smaller size unit shall be utilized. If DHC errs in the bedroom size designation, the family will be issued a voucher of the appropriate size.

5.2.D. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, DHC may grant an exception to its established subsidy standards if DHC determines that the exception is justified by the age, sex, health, disability, 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 related to a family member's disability, medical or health condition.
- For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom.

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.

DHC will notify the family of its determination within 15 business days of receiving the family's request or of the receipt of any documentation requested to verify the request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5.2.E. VOUCHER ISSUANCE [24 CFR 982.302]

This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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

A voucher can be issued to an applicant family only after DHC has determined that the family is eligible based on information received within the 60 days prior to voucher issuance [24 CFR 982.201(e)] and after the family has attended a mandatory oral briefing. Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

Before issuing vouchers, DHC will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16. If DHC determines that there is

insufficient funding after a voucher has been issued, DHC may rescind the voucher and place the affected family back on the waiting list.

1. Voucher Issuance Determination for Split Households

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. In the absence of a judicial decision, or an agreement among the original family members, DHC will determine which family will continue to receive assistance taking into consideration the following factors:

(1) the interest of any minor children, including custody arrangements.
(2) the interest of any ill, elderly, near elderly, or disabled family members.
(3) the relationships or custody arrangements.
(4) school records.
(5) any possible risks to family members as a result of domestic violence or criminal activity; and
(6) the recommendations of social service professionals.

2. Retention of Voucher for Remaining Family Member

To be considered the remaining family member, a person must be currently approved by DHC as an authorized member of the family composition and must be currently living in the unit. A live-in aide, by definition, is not a member of the family and will not be considered a remaining family member.

In order for a minor child to continue to receive assistance as a remaining family member, the court must have awarded emancipated minor status to the minor, or DHC has to have verified that the appropriate agency has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. A reduction in family size may require a reduction in the voucher size, at the next annual re-examination or move, whichever occurs first.

At any time that custody or guardianship legally has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. This process will continue as needed until the last minor child reaches age 18. Once all minor children are no longer remaining with the caregiver and if the last remaining minor child does not take possession of the HCV, the voucher will expire within 180 days of the last child leaving the subsidized unit.

5.2.F. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

1. Voucher Term [24 CFR 982.303]

The initial voucher term will be a minimum of 60 calendar days and will be stated on the voucher. The family must submit a Request for Tenancy Approval and a proposed lease within the initial voucher period unless DHC grants an extension.

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

DHC will approve additional extensions only in the following circumstances:

- If it is necessary as a reasonable accommodation for a disabled person.
- If it is necessary due to reasons beyond the family's control, as determined by DHC. Following is a list of extenuating circumstances that DHC may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
    - Serious illness or death in the family
    - Other family emergency
    - Obstacles due to employment
    - Whether the family has already submitted requests for tenancy approval that were not approved by DHC

- Whether family size or other special requirements make finding a unit difficult

Generally, any request for an extension must be in writing and include the reason(s) the extension is necessary. DHC may require the family to provide documentation to support the request. Oral extension requests may be approved by the Director of Assisted Housing or designee on a case-by-case basis as a reasonable accommodation to participants with disabilities. All requests for extensions to the voucher term must be submitted to DHC before the expiration date of the voucher or the extended term of the voucher.

DHC will decide whether to approve or deny an extension request within 10 business days of the date the request is received and will immediately provide the family written notice of its decision. DHC may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance without an extraordinary reason. DHC's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

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

When a Request for Tenancy Approval is received by DHC, the term of the voucher will be suspended while DHC processes the request. The suspension ends when DHC notifies the family in writing whether the request has been approved or denied.

4. Expiration of Voucher Term

If the voucher expires and is not extended by the DHC, or expires after an extension(s), the family will be denied assistance. The family will not be entitled to an informal review. If the family is currently assisted, he/she may remain as a participant in the unit if there is an assisted lease and HAP Contract in effect.

5. Assistance to Voucher Holders During Search

Voucher holders will be notified at the briefing that DHC periodically updates the listing of available units and how the updated list may be obtained. DHC will assist families with negotiations with owners and provide other assistance related to the families' search for housing, including assistance in locating units outside of areas of high poverty concentration. DHC recommends the family maintain a search record. It may be useful if the family requests an additional extension.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the DHC's subsidy. The DHC will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regu0lations. This chapter describes HUD regulations and DHC policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and DHC policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and DHC policies for calculating income from assets are found in Part II.

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

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

PART I: ANNUAL INCOME

6.1.A. OVERVIEW

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts 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;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds $50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of

determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6.1.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and DHC policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

DHC Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted

unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

DHC Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the DHC 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 (as confirmed by the state child welfare agency) are considered members of the family

DHC Policy

If a child has been placed in foster care, the DHC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head, Spouse, or Cohead

DHC Policy

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

Family Members Permanently Confined for Medical Reasons

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

DHC Policy

The DHC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

DHC Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the DHC will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

DHC Policy

The approval of a caretaker is at the owner and DHC's discretion and subject to the owner and DHC's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the DHC will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the DHC 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 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 annual income and the caretaker does not qualify the family for any deductions from income.

6.1.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income

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

DHC Policy

When the DHC cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the DHC to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the DHC annualized projected income.

Known Changes in Income

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the DHC will calculate annual income using current circumstances and then, should the change in income require the DHC to conduct an interim reexamination, conduct an interim reexamination in accordance with DHC policy in Chapter 11.

Calculating Annual Income at Annual Reexamination

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

6.1.D. EARNED INCOME

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

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

Earned income means 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 [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A seasonal worker is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the

individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

DHC Policy

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

For persons who regularly receive bonuses or commissions, the DHC will verify, and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the DHC will use the prior year amounts. In either case the family may provide, and the DHC will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the DHC will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire

[Earnings of a Minor [24 CFR 5.609(b)(3)]

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

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

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

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

6.1.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; STREAMLINING FINAL RULE (SFR) FEDERAL REGISTER 3/8/16; NOTICE PIH 2023 27]

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

Calculation of the Disallowance

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

Calculation Method

Initial 12-Month Exclusion

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

DHC Policy

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

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

DHC Policy

During the second 12-month exclusion period, the DHC will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

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

6.1.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(B)(28); NOTICE PIH 2023-27]

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

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

DHC Policy

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

Independent Contractors

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

An independent contractor is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

Business Expansion

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

DHC Policy

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

Capital Indebtedness

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

DHC Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require the DHC 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.

DHC Policy

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

Co-owned Businesses

DHC Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6.1.G. STUDENT FINANCIAL ASSISTANCE [FR NOTICE 2/14/23 AND NOTICE PIH 2023-27]

Introduction

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The DHC will follow the pre-HOTMA Section 8 student financial assistance limitation described below.
- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students

defaults to the methodology described for the public housing program and listed below.

Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]

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.

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 voucher program, or the moderate rehabilitation 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 and any other required fees and charges 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 DHC will use the definitions of dependent child, institution of higher education, and parents in Chapter 3, 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 Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, 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 and fees are defined in the same manner in which the Department of Education defines tuition and fees [Notice PIH 2015-21].
  - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.

- The amount represents what a typical student would be charged and may not be the same for all students at an institution.
- If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
- Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
- Expenses related to attending an institution of higher education must not be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, 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.

HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;

- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs

  - The Higher Education Tribal Grant

  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;

  - Including supplies and equipment to support students with learning disabilities or other disabilities

- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the DHC.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;

- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

DHC Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the DHC will exclude the full amount of the assistance received under Title IV from the family's annual income. The DHC will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The DHC will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The DHC will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student's financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the DHC will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6.1.H. PERIODIC PAYMENTS

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

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

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

are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

DHC Policy

The DHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the DHC is processing an annual reexamination, the DHC will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the DHC is processing an annual reexamination, then the DHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the DHC will conduct an interim in accordance with DHC policies in Chapter 11. If not, the DHC will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2018-24]

The DHC is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be

effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

DHC Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the DHC will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and Child Support

DHC Policy

The DHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The DHC will count court-awarded amounts for alimony and child support unless the family certifies and the DHC verifies that the payments are not being made.

In order to verify that payments are not being made, the DHC will review child support payments over the last three months.

If payments are being made regularly, the DHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the DHC will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the DHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the DHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the DHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the DHC will not include alimony or child support in annual income.

6.1.I. NONRECURRING INCOME [24 CFR 5.609(B)(24) AND NOTICE PIH 2023-27]

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, DHCs are prohibited from assigning monetary value to non-monetary in-kind

donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.

- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6.1.J. WELFARE ASSISTANCE

Overview

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

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

The DHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the DHC must include in annual income "imputed" welfare income. The DHC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency

economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

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

6.1.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(B)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6.1.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(B)(25); FR NOTICE 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed $50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the DHC or owner chooses not to conduct the examination.

6.1.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(B)]

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

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].

- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- 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 CFR 5.609(b)(23)].

- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants 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 [24 CFR 5.609(i)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- 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 DHC or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 I(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

DHC Policy

The DHC defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The DHC defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a

training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the DHC will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the DHC's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- 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 24 CFR 5.609(b) apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the Federal Register on May 20, 2014. 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) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

(c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

(d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

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

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the 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)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

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

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

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

(r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

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

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

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

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

(w) 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)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

PART II: ASSETS

6.2.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of net family assets.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

DHC Policy

The DHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The DHC will 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 DHC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the DHC 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 DHC to show why the asset income determination does not represent the family's anticipated asset income.

6.2.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(B)(2)]

DHCs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

The HCV Guidebook permits the DHC to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

DHC Policy

The DHC will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

Separation or Divorce

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

DHC Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

Family Declaration

DHC Policy

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. The DHC may verify the

value of the assets disposed of if other information available to the DHC does not appear to agree with the information reported by the family.

6.2.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The DHC must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

DHC Policy

The DHC will include interest or dividends earned by investment accounts 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, the DHC will use the value of the account in the most recent investment report.

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines necessary personal property as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items

that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds $50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	**Non-Necessary Personal Property**
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	

DHC Policy

In determining the value of non-necessary personal property, the DHC will use the family's estimate of the value. The DHC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

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

However, these amounts may count toward net family assets. The DHC must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump

sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the DHC chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

DHC Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the DHC must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

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

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable.*

When the creator sets up an irrevocable trust, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the DHC must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member

may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The DHC must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds $50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect

on the balance of the asset (i.e., there is no need for the DHC to subtract the amount of the deposit from the value of the excluded asset).

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- 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 family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and

- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6.2.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

DHC Policy

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 such as settlement costs and transfer taxes [New PH OCC GB, Income Determinations, p. 24].

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

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

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The DHC may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed $50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The DHC may not calculate or include any imputed income from assets when net family assets total $50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed $50,000 (adjusted annually by HUD), the DHC may not rely on self-certification. If actual returns can be calculated, the DHC must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the DHC must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the DHC can compute actual income from some but not all assets, the DHC must compute actual returns where possible and use the HUD determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

PART III: ADJUSTED INCOME

6.3.A. INTRODUCTION

Overview

HUD regulations require DHCs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the DHC to deduct other permissive deductions in accordance with DHC policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611 Adjusted income means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
>
> (a) Mandatory deductions
>
> (1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
>
> (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
>
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

DHC Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the DHC 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 DHC may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the DHC will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, Income Determinations, p. 30]. For annual reexaminations, the DHC will use information for the previous 12-month period.

6.3.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6.3.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An elderly family is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6.3.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I) AND 5.603(B)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

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

Definition of Medical Expenses

HUD regulations define health and medical care expenses at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting DHCs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. DHCs must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

DHC Policy

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

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

6.3.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(B) AND 24 CFR 5.611(A)(3)(II)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities 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

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.

DHC Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the DHC 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 DHC determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking.

Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

DHC Policy

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

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

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

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

DHC Policy

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

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

DHC Policy

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

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

6.3.F. CHILDCARE 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 (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of Child for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

DHC Policy

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

In evaluating the family's request, the DHC 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

DHC Policy

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

Furthering Education

DHC Policy

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

Being Gainfully Employed

DHC Policy

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

Earned Income Limit on Childcare Expense Deduction

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

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

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare 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, childcare expenses are limited to $5,000.

The DHC must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

DHC Policy

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

Eligible Childcare Expenses

The type of care to be provided is determined by the assisted family. The DHC may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Childcare Activities

DHC Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

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

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the DHC will prorate the costs and allow only that portion of the expenses that is attributable to childcare 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 childcare provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

DHC Policy

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

To establish the reasonableness of childcare costs, the DHC will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and the DHC will consider, justification for costs that exceed typical costs in the area.

6.3.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(C), (D), AND (E)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined

to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
    - When an eligible family's phased-in relief begins at an interim reexamination, the DHC will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

DHCs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same DHC. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the DHC has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the DHC. When a family moves with continued assistance or ports to a new DHC, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The DHC must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

DHC Policy

The DHC will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in DHC policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that DHCs develop policies defining what constitutes a hardship for purposes of this exemption.

The DHC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. DHCs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

DHC Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The DHC defines a change in circumstances as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with DHC policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the DHC.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The DHC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

DHC Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC determination, the family may request a hearing.

If the family qualifies for an exemption, the DHC will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the DHC may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. DHCs are not limited to a maximum number of 90-day extensions.

DHCs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. DHCs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

DHC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The DHC will require updated

verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

Childcare Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the DHC's satisfaction that the family is unable to pay their rent because of the loss of the childcare expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the DHC must recalculate the family's adjusted income and continue the childcare deduction.

The DHC must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The DHC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. DHCs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

DHC Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be a result of the loss of this deduction. The DHC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. The DHC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The DHC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the DHC denies the request, the notice must specifically state the reason for the denial. DHCs must provide families with 30 days' notice of any increase in rent.

If the DHC approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the DHC if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

DHC Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC determination, the family may request an informal grievance hearing.

If the family qualifies for an exemption, the DHC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The DHC may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in DHC policies. DHCs are not limited to a maximum number of 90-day extensions. DHCs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

DHCs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the DHC denies the request, the notice must specifically state the reason for the denial.

DHCs must notify the family if the hardship exemption is no longer necessary, and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

DHC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption. The DHC will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

6.3.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(B)(1)(II)]

The DHC may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purposes. If the DHC offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A DHC that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A DHC will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

DHC Policy

The DHC has opted not to use permissive deductions.

PART IV: CALCULATING FAMILY SHARE AND DHC SUBSIDY

6.4.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the DHC

The DHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

DHC Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

DHC Policy

The minimum rent for this locality is $0.

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 DHC's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the DHC 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. (For a discussion of the application of payment standards, see section 6 IV.C.)

DHC Subsidy [24 CFR 982.505(b)]

The DHC will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-IV.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the DHC subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the DHC to pay the reimbursement to the family or directly to the utility provider.

DHC Policy

The DHC will make utility reimbursements to the family.

The DHC may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The DHC must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

DHC Policy

The DHC will issue all utility reimbursements monthly.

6.4.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

DHC Policy

The financial hardship rules described below do not apply in this jurisdiction because the DHC has established a minimum rent of $0.

Overview

If the DHC establishes a minimum rent greater than zero, the DHC must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the DHC determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

DHC Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

DHC Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

DHC Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the DHC.

DHC Policy

The DHC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the DHC must suspend the minimum rent requirement beginning the first of the month following the family's request.

The DHC then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

DHC Policy

The DHC defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

DHC Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The DHC will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the DHC determines there is no financial hardship, the DHC will reinstate the minimum rent and require the family to repay the amounts suspended.

DHC Policy

The DHC will require the family to repay the suspended amount within 30 calendar days of the DHC's notice that a hardship exemption has not been granted.

Temporary Hardship

If the DHC determines that a qualifying financial hardship is temporary, the DHC must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the DHC the amounts suspended. HUD requires the DHC to offer a reasonable repayment agreement, on terms and conditions established by the DHC. The DHC also may determine that circumstances have changed, and the hardship is now a long-term hardship.

DHC Policy

The DHC will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the DHC determines that the financial hardship is long-term, the DHC must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

DHC Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6.4.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(B)]

Overview

The DHC's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the DHC's payment standards. The establishment and revision of the DHC's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the DHC's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the DHC has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the DHC must use the appropriate payment standard for the exception area.

The DHC 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 DHC will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the DHC 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

If a DHC changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the DHC is not required to reduce the payment standard used

to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the DHC does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the DHC may either reduce the payment standard to the current amount in effect on the DHC's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The DHC may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the DHC must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The DHC's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

DHC Policy

If a DHC changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the DHC will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The DHC will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size (Voucher 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 reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the DHC is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

6.4.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A DHC-established utility allowance schedule is used in determining family share and DHC subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using DHC subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the DHC's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family that includes a person with disabilities, the DHC must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the DHC may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the DHC deems appropriate. The family must request the higher allowance and provide the DHC an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

DHCs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

DHC Policy

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

The DHC will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the DHC will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or DHC may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The DHC will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

At its discretion, the DHC may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or DHC-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions

At reexamination, the DHC must use the current utility allowance schedule [HCV GB, p. 18-8].

DHC Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6.4.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The DHC must prorate the assistance provided to a mixed family. The DHC will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the DHC subsidy for a family is calculated at $500 and two of four family members are ineligible, the DHC subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

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

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

(2) When the value of 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.

(b)Annual income does not include the following:

(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) 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 fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

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

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

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

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

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

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

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

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

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

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

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

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

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

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of 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; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) 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 family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income.

The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination.

The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

INTRODUCTION

The DHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The DHC must not pass on the cost of verification to the family.

The DHC must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary DHC policies.

Part I describes the general verification process.

Part II provides more detailed requirements related to family information.

Part III provides information on income and assets.

Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the DHC.

PART I: GENERAL VERIFICATION REQUIREMENTS

7.1.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 982.551; CFR 5.230; AND NOTICE PIH 2023-27]

Consent Forms

The family must supply any information that the DHC or HUD determines is necessary to the administration of the program and must consent to DHC verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the DHC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the DHC in administrative instructions.

The DHC has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

DHC Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The DHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the DHC determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the DHC to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the DHC must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with DHC procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the DHC to access financial records from financial institutions, unless the DHC establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

DHC Policy

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

In order for a family to revoke their consent, the family must provide written notice to the DHC.

Within 10 business days of the date the family provides written notice, the DHC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the DHC will notify their local HUD office.

7.1.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(C)(3) AND NOTICE PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);

- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the DHC elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the DHC:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the DHC. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the DHC is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the DHC must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the DHC uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the DHC's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

DHC Policy

When available and applicable, the DHC will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The DHC will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the DHC will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the DHC will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the DHC will obtain third-party verification of all sources of income and assets (as applicable).

The DHC will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the DHC will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size
- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the DHC does not receive any acceptable income determination documentation or is unable to obtain documentation, then the DHC will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the DHC will use the most recent income determination, unless the family presents acceptable evidence that the DHC should consider an alternative verification from a different Safe Harbor source.

When the DHC uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the DHC. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the DHC receives the Safe Harbor documentation, and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the DHC will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the DHC will use third-party verification to verify the change.

7.1.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(C); NOTICE PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the DHC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The DHC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the DHC must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the DHC may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

DHC Policy

When the DHC does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then DHC will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

- The DHC will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.
- The DHC will document in the file how the determination that a source of income was fixed was made.
- Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.
- If the family's sources of fixed income have changed from the previous year, the DHC will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

- The DHC will apply a COLA to each of the family's sources of fixed income.
- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the DHC will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed $50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

7.1.D. VERIFICATION HIERARCHY [NOTICE PIH 2023-27]

When the DHC does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the DHC to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the DHC to use the most reliable form of verification that is available and to document the reasons when the DHC uses a lesser form of verification.

In order of priority, the forms of verification that the DHC will use are:

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The DHC must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The DHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the DHC

has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7.1.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the DHC.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the DHC has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the DHC.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the DHC conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the DHC used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the DHC must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

DHC Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the DHC will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The DHC will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the DHC determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the DHC uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the DHC requires an interim for increases in earned income after an interim decrease, then the DHC must review the report quarterly after the family's interim decrease.

DHC Policy

In accordance with DHC policies in Chapter 11, the DHC does not process interim reexaminations for families who have increases in earned income. Except for instances in which the DHC uses Safe Harbor income determinations to determine a family's annual income, the DHC will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The DHC must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

DHC Policy

The DHC will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The DHC will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the DHC may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the DHC determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

EIV Identity Verification Report

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

DHC Policy

The DHC will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The DHC will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the DHC determines that discrepancies exist as a result of DHC errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The DHC is required to review the report at least quarterly.

DHC Policy

The DHC will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The DHC must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

DHC Policy

The DHC will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining, household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The DHC may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The DHC is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

7.1.F. LEVEL 4 VERIFICATION [NOTICE PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV +_Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as EIV + self-certification. When calculating income using this method, the DHC may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

DHC Policy

At annual reexamination, if the DHC is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the DHC will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The DHC will use an average of the last two quarters of income listed in EIV to determine income from employment. The DHC will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the DHC will use written third-party verification from the source as outlined below.

The DHC will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the DHC. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The DHC is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the DHC should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the DHC uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

DHC Policy

In general, the DHC will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The DHC will not use this method if the DHC is able to use an income determination from a means-tested federal assistance program or if the DHC uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the DHC. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The DHC 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 the DHC determines that third-party documents provided by the family are not acceptable, the DHC will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the DHC will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the DHC will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the DHC may request additional paystubs or a payroll record.

7.1.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [NOTICE PIH 2023 27]

This type of verification is a form developed by the DHC and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a DHC-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The DHC may use this method when higher forms are unavailable or are rejected by the DHC or when the family is unable to provide acceptable verification. The DHC may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

DHC Policy

Typically, the DHC will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the DHC may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7.1.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [NOTICE PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must 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.

The DHC may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

DHC Policy

In general, the DHC will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the DHC will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the DHC chooses to obtain oral third-party verification, the DHC will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

DHC Policy

If the family cannot provide original documents, the DHC will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7.1.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [NOTICE PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the DHC has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $50,000 or less and the DHC has adopted a policy to accept self-certification
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The DHC has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the DHC was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

DHC Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the DHC.

The DHC may require a family to certify that a family member does not receive a particular type of income or benefit.

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

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

7.2.A. VERIFICATION OF LEGAL IDENTITY

DHC Policy

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

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

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

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the DHC and must be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the DHC has reason to doubt the identity of a person representing themselves to be a participant.

7.2.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, NOTICE PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The DHC must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the DHC has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the DHC must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the DHC must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

DHC Policy

The DHC will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The DHC may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

DHC Policy

The DHC will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the DHC within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The DHC must grant one additional 90-day extension if it determines that the applicant's failure to comply

was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the DHC will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the DHC determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The DHC may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the DHC determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the DHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

DHC Policy

The DHC will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the DHC may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

DHC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the DHC will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7.2.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

DHC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the DHC will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7.2.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

DHC Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

DHC Policy

Certification by the head of household is normally sufficient verification. If the DHC has reasonable doubts about a marital relationship, the DHC will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

DHC Policy

Certification by the head of household is normally sufficient verification. If the DHC has reasonable doubts about a separation or divorce, the DHC will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

DHC Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the DHC so requests.

Foster Children and Foster Adults

DHC Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7.2.E. VERIFICATION OF STUDENT STATUS

General Requirements

DHC Policy

The DHC requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.
- The family reports childcare expenses to enable a family member to further their education.
- The family includes a student enrolled in an institution of higher education.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

DHC Policy

In accordance with the verification hierarchy described in section 7-1.B, the DHC will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of institution of higher education in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-2.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-2.E.
- The student is a person with disabilities, as defined in section 3-2.E, and was receiving assistance prior to November 30, 2005.

If the DHC cannot verify at least one of these exemption criteria, the DHC will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the DHC will then proceed to verify either the student's parents' income eligibility (see section 7-3.J) or the student's independence from their parents (see below).

Independent Student

DHC Policy

The DHC will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of independent student (see section 3-2.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of independent student (see section 3-2.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the DHC determines that the student is a vulnerable youth (see section 3-2.E)

7.2.F. DOCUMENTATION OF DISABILITY

The DHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The DHC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the DHC receives a verification document that provides such information, the DHC will not place this information in the tenant file. Under no circumstances will the DHC request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

DHC Policy

For family members claiming disability who receive disability benefits from the SSA, the DHC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the DHC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the DHC will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter, they will be required to provide it to the DHC.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

DHC Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7.2.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and DHC verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The DHC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

DHC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the DHC receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

DHC Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-2.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the DHC must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The DHC will follow all USCIS protocols for verification of eligible immigration status.

7.2.H. VERIFICATION OF PREFERENCE STATUS

The DHC must verify any preferences claimed by an applicant that determined placement on the waiting list.

DHC Policy

The DHC will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The DHC will verify this preference using the DHC's termination records.

The DHC also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as described in Section 4-3.C. To verify that applicants qualify for the preference, the DHC will follow documentation requirements outlined in Section 16-IX.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides DHC policies that supplement the general verification procedures specified in Part I of this chapter.

DHC Policy

The following policies do not apply when the DHC uses a safe harbor income determination from a means-tested federal assistance program.

7.3.A. EARNED INCOME

Tips

DHC Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

DHC Policy

When the DHC requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7.3.B. BUSINESS AND SELF EMPLOYMENT INCOME

The DHC must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

DHC Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, The DHC will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the DHC will provide a format for the individual to declare their income and expenses. The DHC will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The DHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy at all future reexaminations. At any reexamination the DHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the DHC will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the DHC will require the family to provide documentation of income and expenses for this period and use that information to project income.

7.3.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits [Notice PIH 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the DHC must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for

each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the DHC should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The DHC must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the DHC must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the DHC must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The DHC must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the DHC must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the DHC should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The DHC must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7.3.D. ALIMONY OR CHILD SUPPORT [NOTICE PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

DHC Policy

The methods the DHC will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 12 months prior to DHC request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7.3.E. NONRECURRING INCOME [NOTICE PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income, and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

DHC Policy

The DHC will accept self-certification from the family stating that income will not be repeated in the coming year. However, the DHC may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7.3.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling $50,000 or less (adjusted annually), the DHC may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the DHC is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over $50,000, the DHC may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

DHC Policy

For families with net assets totaling $50,000 or less, the DHC will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The DHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the DHC will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the DHC will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The DHC must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the DHC may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the DHC must obtain third-party verification.

DHC Policy

Both at admission and reexam, the DHC will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The DHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the DHC will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the DHC will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7.3.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The DHC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

DHC Policy

The DHC will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The DHC will verify the value of assets disposed of only if:

The DHC does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

> Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
>
> Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7.3.H. NET INCOME FROM RENTAL PROPERTY

DHC Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the DHC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7.3.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [NOTICE PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the DHC does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7.3.J. RETIREMENT ACCOUNTS

DHC Policy

The DHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

7.3.K. INCOME FROM EXCLUDED SOURCES [NOTICE PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the DHC is **not** required to follow the verification hierarchy, for fully excluded income, the DHC is **not** required to document why third-party verification is not available or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the DHC **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

DHC Policy

The DHC will accept the family's self-certification as verification of fully excluded income. The DHC may request additional documentation if necessary to document the income source.

The DHC will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7.3.L. ZERO INCOME STATUS REVIEWS [NOTICE PIH 2023-27]

A *zero-income review* is an assessment, sometimes periodic, performed by the DHC of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

DHC Policy

The DHC will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The DHC will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the DHC will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The DHC will only conduct interims in accordance with DHC policy in Chapter 11.

7.3.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(B)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

DHC Policy

The DHC will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the DHC will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the DHC is unable to obtain third-party written verification of the requested information, the DHC will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7.3.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with DHC policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

DHC Policy

If the DHC is required to determine the income eligibility of a student's parents, the DHC will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-2.E). The DHC will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information

directly to the DHC. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the DHC.

The DHC reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7.4.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the DHC verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The DHC must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The DHC must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7.4.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The DHC must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The DHC may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the DHC must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

DHC Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the DHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The DHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the DHC will redact all personally identifiable information.

If the DHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the DHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the DHC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will DHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the DHC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The DHC must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the DHC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

DHC Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

DHC Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the DHC will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7.4.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-2.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The DHC must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The DHC may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the DHC must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

***Attendant C*are**

DHC Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the DHC will redact all personally identifiable information.

If the DHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the DHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the DHC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will DHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

DHC Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the DHC must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-2.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The DHC will verify that the expense is incurred for a person with disabilities (See 7-2.F.).

Family Member(s) Permitted to Work

The DHC must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

DHC Policy

The DHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-2.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

DHC Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7.4.D. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the DHC must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The DHC will verify that the child being cared for (including foster children) is under the age of 13 (See 7-2.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

DHC Policy

The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The DHC must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

DHC Policy

Information to be Gathered

The DHC will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the DHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the DHC will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the DHC any reports provided to the other agency.

In the event third-party verification is not available, the DHC will provide the family with a form on which the family member must record job search efforts. The DHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The DHC will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The DHC will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

DHC Policy

The DHC will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

The DHC will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The DHC will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

DHC Policy

The actual costs the family incurs will be compared with the DHC's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the DHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

<table>
<tr><td colspan="2">

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

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Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

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All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

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- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

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- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

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<tr><td>

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

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- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

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• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or

• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register

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CHAPTER 8

HOUSING STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 SUBPART I AND 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance meet HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than October 1, 2024. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2023-28].

All units must pass an NSPIRE inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months (or 36 months for small rural PHAs) during the term of the HAP contract, and at other times as needed, to determine that the unit meets NSPIRE standards. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

Provided they meet certain requirements, HUD permits PHAs to establish some additional local requirements in their administrative plans. The use of the term NSPIRE in this plan refers to the combination of both HUD and PHA-established requirements. However, state, and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

This chapter explains HUD and PHA requirements related to physical inspections and rent reasonableness as follows:

Part I. Physical Standards. This part discusses NSPIRE standards required of units occupied by HCV and PBV-assisted families. It also identifies affirmative habitability requirements for all units and life-threatening conditions that must be corrected in 24 hours.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE standards.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special NSPIRE requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction. Special requirements for the PBV and RAD PBV programs (if applicable) are discussed in Chapters 17 and 18, respectively.

HUD requires that all units occupied by families receiving HCV assistance meet HUD's Housing Quality Standards (HQS) and permits DHC to establish additional requirements. DHC can enhance its HQS standards provided that by doing so, it does not overly restrict the number of units available for lease under the HCV Program. HQS are the HUD minimum quality standards for tenant-based programs

The use of the term "HQS" in this Admin Plan refers to the combination of HUD and DHC established requirements. HQS inspections are required before the Housing Assistance Payment (HAP) Contract is signed and at least annually during the term of the HAP Contract. HUD and DHC rules and regulations prohibit any payments to the owner prior to a unit passing the HQS inspection.

HUD also requires DHC to determine that units rented by families assisted under the HCV Program that rents are reasonable when compared to comparable unassisted units in the market area.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply.

This chapter explains HUD and DHC requirements related to HQS and rent reasonableness as follows:

PART I: NSPIRE STANDARDS

NSPIRE standards are published on HUD's NSPIRE website as well as in the NSPIRE Final Rule [FR Notice 5/1/2023].

8.1.A. INSPECTABLE AREAS [24 CFR 5.703(A)(1) AND 24 CFR 5.705(A)(2)]

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

8.1.B. AFFIRMATIVE HABITABILITY REQUIREMENTS [24 CFR 5.703(B), (C), AND (D)]

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e).

The NSPIRE Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, sealed batteries will be required.

DHC will make efforts to encourage owners to provide housing above HQS and/or NSPIRE minimum standards.

1. Illumination and Electricity

Ground Fault Circuit Interrupter (GFCI) receptacles are required in all bathrooms within the unit including in half baths.

Receptacles installed within 6 ft. of the outside edge of a water source must also be GFCI-protected.

All three-prong outlets must be grounded. If no ground wire exists, two prong outlets are acceptable.

Light fixtures must have covers/globes to eliminate exposed wires.

2. Structure and Materials

In order to prevent water damage and eventual deterioration, all walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water.

Damaged or deteriorated sashes must be replaced, or window clips inserted. One window in each living area must include at least one fully operational screen.

Storm doors are not required but, if present, they must be in a safe, operable condition with the closer mechanism intact.

All worn or cracked toilet seats and tank lids must be replaced, and the toilet lid must fit properly.

3. Space and Security

The family must not be required to go through one bedroom to get to another bedroom.

If window bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Smoke detectors must be on each level including the basement. Smoke detectors must meet the requirements of the National Fire Protectors Association standard 74 or any successor standard.

DHC will require owners to meet state or local law or building codes related to having operational carbon monoxide (CO) detectors in units to meet Housing Quality Standards. If state or local law or building code do not require CO detectors, DHC will require CO detectors in units that have (1) fuel-fired/burning appliance(s), (2) an attached garage or (3) in bedrooms that contain a fireplace or fuel-fired or burning

appliances. Owners may use a combination smoke-detector/CO detector in lieu of installing two devices (as long as not prohibited by state or local requirements). Units failing to meet the state or local law related to CO detectors or DHC required CO detectors will fail HQS AND/OR NSPIRE as a 24-hour life threatening category.

In addition, the following identified items must be addressed:

- Smoke detectors must have a visible signal for the hearing impaired and connected to a smoke detector immediately outside the bedroom occupied by the hearing-impaired occupant.
- A handrail must be installed where 3 or more risers exist including steps located outside, on a second floor, in a basement and in an attic.
- A guardrail must be positioned on the opened side of a staircase.
- A guardrail is required on both sides when there is more than a 30-inch drop from the ground level and top step.
- A simple bolt lock on exterior doors may be used along with a regular key lock. Double cylinder deadbolt locks are NOT allowed, as they present an emergency exit hazard.
- CO detectors should be either stand-alone or combination smoke detectors-CO detectors and must be in units that have fuel-fired burning appliances.

4. Site and Neighborhood

Downspouts must have diverters to avoid water from entering the unit causing mold/mildew.

Severe infestation of mice or rats must be addressed by a licensed technician and all access points must be closed off to ensure that the unit is adequately barricaded.

5. Bed Bugs

Owners are responsible for keeping the entire building free from vermin. Participants are responsible for the cleanliness of those parts of the premises that they occupy and control. Therefore, it is essential that landlords and participants work together to eliminate bed bugs. While mice and ants typically come in from the outside, bed bugs are more commonly carried in, via luggage, old mattresses, and furniture. If a participant reports an infestation of bed bugs in the unit, it shall be the responsibility of the owner to prepare to inspect the unit right away. As with any other damage caused by a participant, the landlord may charge the participant for the cost to treat the unit if it is determined that the participant is responsible for the infestation.

If the landlord has reason to conclude that the participant has an isolated incident of bed bug infestation and that the participant is responsible for the infestation, the landlord shall not be required to eradicate the infestation. In these instances, the participant shall be responsible for exterminating the bed bug

infestation in the unit. This should be included in the landlord's lease. If it is determined that it due to neglect on the part of the landlord, it shall be the responsibility of the landlord to pay for the eradication.

6. Access

The unit must provide an alternate means of exit from the building in case of fire or another emergency. The exits cannot be blocked or obstructed by debris, used as a storage area, or secured by nails. All security bars/doors must be quick release.

7. Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood should be free of hazards to the family's health and safety.

8.1.C. TENANT PREFERENCE ITEMS

HUD requires DHC to enforce minimum HQS AND/OR NSPIRE but also requires that certain judgments about acceptability be left to the family. For example, DHC must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

8.1.D. MODIFICATIONS TO PROVIDE ACCESSIBILITY

Under the Fair Housing Act of 1988 an owner must make reasonable accommodations in rules, policies, practices, or services if necessary for a person with disabilities to use the housing and must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit if such modification is necessary to afford the person with a disability full enjoyment of the premises. Such modifications are at the family's expense. The owner may, where it is reasonable to do so, require restoration of the unit to its original condition (reasonable wear and tear excepted) if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit.

However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the participant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the participant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2002-31]

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR

35.151 (c0 and Notice 2003-31]. See Chapter 2 of this Admin Plan for additional information on reasonable accommodations for persons with disabilities.

8.1.E. LIFE-THREATENING DEFICIENCIES [NOTICE PIH 2023-28] [24 CFR 982.404(A); FR NOTICE 1/18/17]

HUD previously required the PHA to define life-threatening conditions in the administrative plan. The NSPIRE standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under NSPIRE:

Inspectable Item	Deficiency
Call-for-Aid System	System is blocked, or pull cord is higher than 6 inches off the floor.
	System does not function properly
Carbon Monoxide Alarm	Carbon monoxide alarm is missing, not installed, or not installed in a proper location.
	Carbon monoxide alarm is obstructed.
	Carbon monoxide alarm does not produce an audio or visual alarm when tested.
Chimney	A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior.
	Chimney exhibits signs of structural failure.
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.
Dorr – 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

Inspectable Item	Deficiency
	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 is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.
Sprinkler Assembly	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
	Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.
	Sprinkler assembly has evidence of corrosion.
	Sprinkler assembly has evidence of foreign material that is detrimental to performance.
Structural System	Structural system exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
	Gas shutoff valve is damaged, missing, or not installed.

However, PHAs may add additional deficiencies which the PHA considers life-threatening provided they are described in the administrative plan

HUD requires that DHC define emergency conditions and to notify the owner or the family, whichever is responsible, of the corrections required.

The following are considered emergency conditions:

- Lack of security, a condition that jeopardizes the security of the unit.
- Major plumbing leaks or flooding, waterlogged ceiling.
- Ceiling in imminent danger of falling.
- Floor in imminent danger of collapse.
- Natural or LP gas or fuel oil leaks/fumes.
- Any electrical problem or condition that could result in shock or fire.
- Absence of a working heating system when outside temperature is expected to be below 60 degrees Fahrenheit.

- Utilities not in service, including no water.
- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Absence of a functioning toilet in the unit.
- Inoperable smoke detectors.
- Broken glass where someone could be injured.
- Inoperable carbon monoxide (CO) detectors where required.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, DHC will notify the proper authorities.

8.1.F. LEAD-BASED PAINT

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

Special Requirements for Children with Elevated Blood Lead Level

If DHC is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, DHC or its designee will complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical care provider. The environmental investigation must be completed in accordance with HCV Program requirements and the results of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information will be provided to the owner.

Within 30 days after receiving the environmental investigation report from DHC, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based

paint hazards in accordance with the lead-based paint regulations in 24 CFR 35.1325 and 35.1330. If the owner does not complete the hazard reduction as required, the dwelling unit is in violation of HQS AND/OR NSPIRE and DHC will take action to abate the HAP. Certification that the hazard reduction has been completed will be conducted at the owner's expense by a licensed industry professional. DHC reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8.1.G. VIOLATION OF SPACE STANDARDS [24 CFR 5.703(D)(5)]

If DHC determines that a unit does not meet the space standards because of an increase in family size or a change in family composition, DHC will issue the family a new voucher and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DHC must terminate the existing HAP Contract in accordance with its terms. If an acceptable unit is not found within 120 days, the family's voucher will be expired.

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a habitable room as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23]. A unit that does not meet these space standards is defined as overcrowded.

DHC will verify at each inspection whether or not an extra bedroom authorized as a reasonable accommodation for medical equipment, a live-in aide, or for the person with disabilities is being utilized as approved in the reasonable accommodation.

Examples of improper use of the extra bedroom include but are not limited to, the following:

- The size of equipment does not warrant an extra bedroom.
- No medical equipment is present in the extra bedroom.
- The bedroom not utilized as a bedroom for the live-in aide.
- The bedroom is not utilized as a bedroom for the person with the disability.

8.1.H. ADDITIONAL LOCAL REQUIREMENTS [24 CFR 5.705(A)(3) AND NOTICE PIH 2023-28]

The PHA may impose variations to the NSPIRE standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to NSPIRE standards and approved variations must be added to the administrative plan.

HUD may approve inspection criteria variations if the variations apply standards in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions. Acceptability criteria variations may only be approved by HUD if such variations either meet or exceed the performance requirements or significantly expand affordable housing opportunities for families assisted under the program.

DHC Policy

The DHC has not requested any HUD-approved variations to NSPIRE standards.

PART II: THE INSPECTION PROCESS [24 CFR 982.405]

8.2.A. TYPES OF INSPECTIONS

DHC conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

1. Initial Inspections. DHC conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV Program. The unit must pass the HQS AND/OR NSPIRE inspection before the effective date of the HAP Contract.

2. Annual/Biennial Inspections. HUD requires the PHA to inspect each unit under lease at least annually or biennially (or triennially for small rural PHAs as defined in 24 CFR 982.305(b)(2)), depending on PHA policy, to confirm that the unit still meets NSPIRE standards.

3. Special (Complaint) Inspections. A special inspection may be requested by the owner, the family, or a third-party as a result of problems identified with a unit between annual inspections.

4. Quality Control Inspections. HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that NSPIRE standards inspections are being enforced correctly and uniformly by all inspectors.

8.2.B. INSPECTION OF DHC-OWNED UNITS [24 CFR 982.352(B)]

DHC must obtain the services of an independent entity to perform all HQS AND/OR NSPIRE inspections in cases where an HCV family is receiving assistance in a DHC-owned unit. A DHC- owned unit includes a unit owned by DHC or an entity substantially controlled by DHC. The independent agency must communicate the results of each inspection to the family and DHC. The independent agency must be approved by HUD.

8.2.C. GENERAL INSPECTION REQUIREMENTS

1. Inspection Costs

DHC may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of DHC-owned units, DHC may compensate the independent agency for inspections performed from ongoing administrative fees. DHC and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b); 24 CFR 5.705(d)].

2. Notice and Scheduling

The family must allow DHC to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

The family and the owner will be given reasonable notice of all inspections. Except in the case of an emergency, reasonable notice is considered notice of not less than 7 days for all inspections other than initial inspections. Health and safety inspections may occur with a 24-hour notice. Reasonable times to conduct inspections are on business days between 8:00 a.m. and 5:00 p.m. Exceptions may apply.

In the case of an emergency, less than a 24-hour notice may be necessary.

3. Attendance at Inspections by Owner and Family

The family and owner will be notified of the date and time of the inspection appointment. When a family occupies the unit at the time of inspection, the head of household or designee over the age of 18 or older must be present for the inspection. The presence of the owner or the owner's representative – recommended.

If the head of household or designee over the age of 18 or older cannot be present on the scheduled date, the family should request that DHC or its designee reschedule the inspection. DHC or its designee and the family will agree on a new inspection date that generally should take place within 10 business days of the originally scheduled date.

DHC or its designee may schedule an inspection more than 10 business days after the original date. A maximum of one rescheduling of the inspection will be permitted between the owner and family. Exceptions to the number of rescheduling requests honored by DHC must be approved by the Director of Assisted Housing or designee.

If the scheduled inspection cannot occur because no-one is home or available to allow access, and there was no rescheduled inspection, the inspection will be classified as a Failed Inspection with notification of possible penalty to both owner and client (HAP Abatement and Termination). If the second scheduled inspection (classified as a re- inspection) results in no-one home or available to allow access, the

inspection will be classified as a Second Failed Inspection – the HAP contract will be placed in Abatement (the first of the next month), the family/participant notified of a pending program termination. To remove the status both the owner and family representative must attend the next scheduled HQS AND/OR NSPIRE Inspection.

The termination of the family's assistance is accordance with Chapter 12.

At initial inspection of a vacant unit, DHC will inspect the unit in the presence of the owner or owner's representative. For safety reasons, DHC will not conduct an inspection of a unit with a lockbox. The presence of a family representative is permitted but is not required.

4. Inspector Discretion Regarding Insect or Rodent Infestation

An inspector encountering infestations of insects or rodents upon any premises, may, at their discretion, cease the inspection until such time that the owner provides written certification of eradication of the infestation.

5. Notification of Inspection Results and Violation Correction

After the inspection, DHC will inform the owner and the family of the results and any violation(s) of HQS AND/OR NSPIRE standards. If a unit passes HQS AND/OR NSPIRE but does not proceed to contract, the HQS AND/OR NSPIRE inspection will remain good for sixty days and can be transferred to another client. The client and owner will be required to sign off on the pass status. If violation(s) are noted, the violation(s) must be corrected by the owner or the participant, whichever is responsible for correcting the violation(s) by the date for which the re-inspection is scheduled. If no re-inspection has taken place within 30 calendar days, the owner or participant must notify DHC and request an immediate inspection.

When life-threatening deficiencies are identified, DHC will immediately notify both parties in person, telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation(s). The corrective actions must be taken within 24 hours of the notice. The re-inspection may occur later than 24 hours in cases of weekends, holidays, or other business-related unforeseen reasons.

When failures that are severe or moderate are identified, DHC will send the owner and the family notification of the inspection results within 5 business days of the inspection. The notice will specify who is responsible for correcting the violation, and the time frame within which the violation must be corrected. No more than 30 days will be allowed for the correction unless DHC decides to allow an extension for good cause, i.e., weather related delays. If low deficiencies are identified, these deficiencies will only be noted for informational purposes.

The notice of inspection results will inform the owner that if emergency violations are not corrected within 24 hours and non-emergency violations are not corrected within 30 days or any DHC-approved

extension, the owner's HAP (rent) will be abated in accordance with DHC policy. Likewise, in the case of family-caused violations, the notice will inform the family that if corrections are not made within the specified time frame, or any DHC-approved extension, the family's assistance will be terminated in accordance with DHC policy.

The PHA will not accept self-certification of repairs. Photos or other documentation of repairs will not be accepted in lieu of a reinspection.

8.2.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

1. Family Responsibilities

The family is responsible for correcting the following deficiencies:

- Participant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" are defined as items that could be charged against the participant's security deposit under state law or court practice.

If a family fails to correct a family-caused life-threatening condition as required by DHC, DHC will enforce the family obligations. See 8-2.H.

2. Owner Responsibilities

The owner must maintain the unit in accordance with NSPIRE regulations and standards. The owner is not responsible for a breach of the HQS AND/OR NSPIRE that is not caused by the owner, and for which the family is responsible (as provided in 24 CFR 982.404(b) and 982.551(c)).

is responsible for all HQS AND/OR NSPIRE violations that are not a family responsibility.

The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family.

The owner is responsible for eliminating vermin infestation, even if caused by the family's living habits. However, if such infestation is serious and repeated, i.e., more than 2 times for the same type of infestation within a 12-month period, it may be considered a lease violation, and the owner may evict for serious or repeated violation of the lease.

DHC may terminate the participant's assistance on that basis with verified owner documentation of previous eradication.

However, vermin entry or infestation through unsealed openings in walls, attics, doors, windows, or pipes, etc. that pass to the exterior of a unit is the owner's responsibility.

The owner will be required to repair an inoperable smoke detector unless the 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.

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the NSPIRE standards in accordance with HUD requirements. See 8-2-G.

3. HQS AND/OR NSPIRE Inspector's Determination

The HQS AND/OR NSPIRE inspector will make the determination of owner or family responsibility during the inspection. If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and DHC will note the family's file with appropriate documentation

4. Extensions

DHC cannot grant an extension to the 24-hour correction period for emergency/ life-threatening deficiencies. For non-emergency violations, DHC may grant an exception to the 30-day correction period if DHC determines that an extension is appropriate [24 CFR 982.404].

Extensions may be granted in cases where DHC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis but will not exceed 60 days except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. DHC will consider Delayed Exterior Repair Extensions (DER) beginning with inspections conducted November 15 through April 15. Scheduling of re-inspection of the deficient items will begin as of May 1st depending upon weather conditions. If upon re-inspection of the DER extension, DHC confirms that deficiencies have not been corrected, HAP abatement will be retroactive to the original deficiency date. If not corrected within 30 days of the DER re-inspection, one final re-inspection will be allowed. If the unit does not pass this final inspection the HAP Contract will terminate at the end of the following month. No additional inspections will be granted.

8.2.E. INITIAL INSPECTION [24 CFR 982.401(A)]

Approving Units [FR Notice 1/18/17; Notice PIH 2017-20; and 24 CFR 982.406]

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet NSPIRE standards before the PHA approves assisted tenancy. However, while the PHA is required to conduct an inspection prior to approving assisted tenancy, PHAs have two options for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly.

The PHA may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified.
- Passed an alternative inspection in the last 24 months.

Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

1. Timing of Initial Inspection

HUD requires the unit to pass HQS AND/OR NSPIRE before the effective date of the lease and HAP Contract. The initial inspection is conducted to (1) determine whether the unit and property meet HQS AND/OR NSPIRE, (2) document the current condition of the unit to assist in future evaluations to determine whether the condition of the unit exceeds normal wear and tear, and (3) document the information to be used to determine rent reasonableness.

DHC will conduct the initial inspection within a reasonable time after receiving a Request for Tenancy Approval (RFTA) from the family. Every effort will be made to conduct the inspection within 15 days of receiving the RFTA.

2. Inspection Results and Re-inspection

For new units proposed for the HCV program, life-threatening deficiencies must be resolved before the HAP contract is executed and the family moves into the unit.

If the unit fails the initial HQS AND/OR NSPIRE inspection, the family and owner will be advised to notify DHC once repairs are completed. The owner will be given up to 15 days from the date of the inspection to correct the deficiencies identified depending on the amount and complexity of work to be done. If requested by the owner, the time frame for correcting the deficiencies may be extended by DHC for good cause.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, DHC will notify the owner and the family the unit has been rejected and the family must search for another unit.

Following a failed re-inspection, the family may submit a new RFTA for the same unit if the family has not found another unit by the time the owner completes all repairs, and the family continues to wish to live in the unit.

3. Utilities

At initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. All utilities must be on to make a full and accurate inspection of the unit. Utility service must be available for testing at the time of the initial inspection

4. Appliances

Appliances must be in the unit in order to meet HQS AND/OR NSPIRE requirements.

8.2.F. HQS AND/OR NSPIRE INSPECTIONS [24 CFR 982.405(A)]

Annual and Biennial HQS AND/OR NSPIRE Inspections

HUD requires the PHA to inspect each unit under HAP contract at least biennially (or triennially for small rural PHAs), to confirm that the unit still meets NSPIRE standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

Biennial Inspections:

DHC will perform HQS AND/OR NSPIRE inspections biennially in accordance with HUD requirements. DHC may employ alternative inspection methods to meet this requirement.

DHC must conduct an initial HQS AND/OR NSPIRE inspection before entering into a HAP contract, and interim HQS AND/OR NSPIRE inspections, if a family or government official notifies DHC of a unit's failure to comply with HQS AND/OR NSPIRE. DHC may not employ alternative inspection methods for these types of HQS AND/OR NSPIRE inspections.

Alternative inspection methods upon which DHC may rely are inspections conducted under the following housing assistance programs:

- HOME Investment Partnerships (HOME)
- The Treasury Department's Low-Income Housing Tax Credit Program
- (LIHTC)HUD, including but not limited to inspections conducted by HUD's Real Estate Assessment Center (REAC)

Additionally, if the property is inspected under an alternative inspection method and the property received a “pass” score, DHC may rely on the inspection to demonstrate compliance with the biennial HQS AND/OR NSPIRE inspection requirement.

If the property is inspected under an alternative inspection method and the property receives a “pass” score, DHC may rely on the inspection to demonstrate compliance with the biennial HQS AND/OR NSPIRE inspection requirement.

If a property is inspected under an alternative inspection method and the property receives a “failure”” score, DHC may not rely on that inspection to demonstrate compliance with the biennial HQS AND/OR NSPIRE inspection requirement.

If a property is inspected under an alternative inspection method that does not employ a pass/fail determination; for example, the LIHTC program, where deficiencies are simply noted, DHC must review the list of deficiencies to determine whether any citied deficiency would have resulted in a failure score under HQS AND/OR NSPIRE. If no such deficiency exists, DHC may rely on the inspection to demonstrate compliance with the biennial HQS AND/OR NSPIRE inspection requirements. If such a deficiency does exist, DHC may not rely on the inspection to demonstrate HQS AND/OR NSPIRE compliance.

Under any circumstances described above in which DHC is prohibited from relying on an alternative inspection methodology, DHC will conduct an HQS AND/OR NSPIRE inspection and follow HQS AND/OR NSPIRE procedures to remedy any noted deficiencies. The HQS AND/OR NSPIRE inspection must take place within a reasonable period of time.

If DHC chooses to use an alternative inspection method, not described above, it must submit a certification to HUD local field office affirming, under penalty of perjury, that the standard provides the same or greater protection to occupants of dwelling units meeting such standard or requirement as would HQS AND/OR NSPIRE.

Each unit under a HAP Contract must have an annual inspection at least biennially before the anniversary date of the last inspection.

Correction Timeframes

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

8.2.G. SPECIAL INSPECTIONS

Complaint Inspections [CFR 982.405(c)]

If at any time the participant family or owner notifies DHC that the unit does not meet HQS AND/OR NSPIRE, DHC will conduct an inspection. A complaint inspection is considered critical if the deficiency creates an immediate life-threatening circumstance such as a gas leak, structural damage, or carbon monoxide leak. If a complaint inspection is critical, DHC will conduct the inspection within 24 hours of notification if the complaint is received during normal business hours Monday through Friday 9:00 am to 4:00 pm.

DHC has the option to conduct a full inspection of the unit or to inspect only the complaint items in the unit. In either case, it is the responsibility of the owner and the participant to correct all deficient items within an allotted time frame. If the annual inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual inspection procedures will be followed. DHC reserves the right to terminate a HAP Contract if another agency inspects a unit and certifies it as unsafe for the participant and family, i.e., city or state law enforcement.

8.2.H. TIME STANDARDS FOR REPAIR

The property owner and the participant are both responsible for the unit meeting HQS AND/OR NSPIRE requirements. The owner or the participant will be given time to correct the failed items, for which they are responsible, as follows:

- Within 24 hours of the inspection date for emergency deficiencies as defined in this chapter.
    - For deficiencies that are cited as emergency that are observed on a Friday, the 24-hour cut-off period shall end on the following Monday.
- Within 30 days of the inspection date for all other deficiencies.
    - If a re-inspection does not occur within the timeframe specified by DHC the time to correct the deficiencies will automatically be extended an additional 10 business days.

8.2.I. CONSEQUENCES IF OWNER IS RESPONSIBLE FOR HQS AND/OR NSPIRE VIOLATIONS [24 CFR 982.405 & 453]

1. <u>HAP (Rent) Abatement</u>

When it has been determined that a unit fails to meet HQS AND/OR NSPIRE, and the owner is responsible for correcting the violation(s), DHC may conduct a re-inspection to ensure violations are corrected within the time period specified by DHC or DHC may permit the unit to pass upon owner self-certification that correction of violations has been completed.

Owner/Property Management Inspection Certification:

If DHC determines from the inspection that the unit did not meet the HQS AND/OR NSPIRE inspection requirements, DHC may allow the unit to pass upon the owner's self-certification that the HQS AND/OR NSPIRE deficiency has been corrected. DHC may allow for owner self-certification when 5% or less of the units tied to the owner have been under HAP abatement due to HQS AND/OR NSPIRE violations during the previous 12 months. 24 CFR 982.404(a)(3) requires that DHC "verifies" HQS AND/OR NSPIRE repairs.

To comply with this requirement DHC may elect to do a re-inspection to verify all HQS AND/OR NSPIRE deficiencies have been corrected. However, a re- inspection is not necessary if DHC can obtain verification through other means. For example, DHC might accept an owner's self-certification that required repairs were completed and then verify that action at the next on-site inspection. Further, DHC might tie the verification process to the severity of the corrections needed and/or its experience with the owner and property. Acceptable owner self-certification documentation may include a DHC-approved self-certification form; a punch list for repair work; open and closed work orders for the specified repairs with the participant's signature; if there is no work order, payment records for maintenance work completed-with the management or owner's signature of acceptance; or other documents as may be required by DHC in order to confirm a repair necessary to complete the HQS AND/OR NSPIRE process.

Owner self-certifications will not be permitted if a unit fails an HQS AND/OR NSPIRE inspection in the following circumstances: initial inspections; complaint inspections; special inspections; project-based voucher unit inspections; or in cases when the deficiency requires mitigation/repair to occur within 24 hours. In these cases, DHC is required to conduct a follow-up inspection.

If an owner is permitted to self-certify that violations were corrected, DHC may accept proof of correction dated after June 3, 2011.

DHC may conduct a re-inspection immediately following the end of the correction period, or any DHC-approved extension. DHC shall notify the owner and the participant of the date and time of a re-inspection. The owner will be allowed up to two re-inspections for violations to be corrected with no more than 4 total inspections for the unit.

If a re-inspection is scheduled and the inspector is unable to gain access to the unit for a re-inspection, HAP (rent) will be abated as of the first day of the month following the missed re-inspection date. HAP (rent) cannot begin again until the inspector is able to enter the unit and determine that the unit meets HQS AND/OR NSPIRE standards. If the inspector has been unable to gain access at the time of a second attempt to conduct a re-inspection, both the participant and the owner will receive a Notice of Contract Termination.

If correction of violations is not completed within the time period specified, the HAP (rent) to the owner will be abated. DHC will notify the owner of its intent to abate rent and the abatement will be effective

on the first day of the month following the expiration of the correction period, including any extensions, specified by DHC.

DHC may grant an extension in lieu of abatement in the following cases:

- DHC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:
    - A repair cannot be completed because required parts or services are not available.
    - A repair cannot be completed because of weather conditions.
    - A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis but will not exceed 60 days except in the case of delays caused by weather conditions. DHC will consider DER extensions beginning with inspections conducted November 15 through April 15. Scheduling of re-inspection of the deficient items will begin as of May 1st depending upon weather conditions.

Under special circumstances at DHCs discretion, if an owner is permitted to self-certify that correction of violations was completed and if rent had been abated and the abatement was subsequently lifted based upon passing a re-inspection, DHC may refund the abated amount if the owner provides documentation to self-certify that the correction of the violations occurred before the date of the re-inspection.

No retroactive payments will be made to the owner by DHC for the period the HAP (rent) was abated.

During any abatement period, the family continues to be responsible for its share of the rent. The owner may not seek payment of abated amounts from the family and may not use the abatement as cause for eviction.

DHC will schedule inspection of abated units within 10 business days of the owner's notification that the violation(s) have been corrected.

2. HAP Contract Termination [24 CFR 982.403 - 405]

If the owner fails to correct the HQS AND/OR NSPIRE violations within sixty (60) days of the beginning of the abatement period, the HAP Contract will be terminated. DHC will provide the owner and the family a 60-day notice of termination of the HAP Contract.

If correction of the violation(s) occurs before the effective date of the HAP Contract termination, the termination may be rescinded if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes the re-inspection. If the HAP Contract is terminated for violation of HQS AND/OR NSPIRE, the HAP Contract cannot be reinstated.

8.2.J. CONSEQUENCES IF PARTICIPANT IS RESPONSIBLE FOR HQS AND/OR NSPIRE VIOLATIONS [CFR 982.404(B)]

If HQS AND/OR NSPIRE violations are determined to be the responsibility of the participant, DHC will require the participant to correct the violations within 24 hours or 30 days, depending upon the nature of the violation. If the violation(s) is not corrected within the allotted time period, DHC will terminate assistance to the participant. The participant may request an informal hearing to contest the termination. The owner's HAP (rent) will not be abated

for HQS AND/OR NSPIRE violations that are the participant's responsibility. If the participant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

The participant will be allowed up to two re-inspections for violations to be corrected with no more than 4 total inspections for the unit.

If the participant is not responsible for correcting violations but fails to allow access to the unit for a re-inspection after the owner fails the HQS AND/OR NSPIRE inspection, DHC may terminate assistance to the participant as well as terminate the HAP Contract.

DHC will provide the owner and the family at least a 30-day notice of pending program termination of the participant's HCV assistance.

8.2.K. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B)]

The purpose of quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspections in application of the HQS AND/OR NSPIRE, as well as being a tool for training of inspectors.

HUD requires DHC or its designee to conduct quality control inspections of a sample of units. The units will be randomly selected from units inspected within the previous three

(3) months. The selection will include units that have undergone annual and initial inspections, are located in a cross-section of neighborhoods, and incorporate a cross- section of inspectors.

PART III: RENT REASONABLENESS [24 CFR 982.507] 8-3 A. OVERVIEW

No HAP Contract can be approved until DHC has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV Program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises.

This part explains the method used to determine whether a unit's rent is reasonable.

1. DHC-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a DHC-owned unit, DHC must obtain the services of an independent entity to determine rent reasonableness in accordance with HCV Program requirements and to assist the family in negotiating the contract rent when the family requests assistance.

A DHC-owned unit is defined as a unit that is owned by DHC or by an entity substantially controlled by DHC.

The independent agency must communicate the results of the rent reasonableness determination to the family and DHC. The independent agency must be approved by HUD.

B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

2. Owner-Initiated Rent Determinations

DHC 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. DHC, or the independent agency in the case of DHC-owned units, will assist the family with the negotiations upon request. At initial occupancy DHC 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 may be done no more frequently than annually and must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS AND/OR NSPIRE inspection have been corrected. Rent increases may be requested at least 60 days before the effective date of the participant's annual re-examination or 60 days before the effective lease renewal.

3. DHC and HUD-Initiated Rent Reasonableness Determinations

HUD requires DHC 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 (FMR) that goes into effect at least 60 days before the contract anniversary date as compared with the FMR in effect one year before the contract anniversary. HUD also may direct DHC to make a determination at any other time. DHC also may decide that a new determination of rent reasonableness is needed at any time.

8.3.A HOW COMPARABILITY IS ESTABLISHED

DHC will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all Housing Programs.

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by DHC.

The owner will be advised that by accepting each monthly HAP s/he will be certifying that the rent to the owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give DHC information on rents charged by the owner for other units in the premises or elsewhere. DHC will only request information on the owner's units elsewhere if DHC has cause to believe that the owner has a tendency to charge higher rents to HCV Program participants or if needed for rent reasonableness comparable.

The data for other unassisted units will be gathered from, newspapers, the

Internet, Realtors, professional associations, inquiries of owners, market surveys, and other available sources. The market areas for rent reasonableness are zip codes within DHC's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of Unit
- Unit Type
- Maintenance
- Utilities

1. Rent Reasonableness Methodology

In determining the reasonableness of rents for units located in a multi-family project that is not substantially assisted, DHC may base its determination on the rents charged for three (3) comparable unassisted units identified by the owner on the RFTA. In such cases, DHC does not have to obtain additional rent comparable in other multi-family housing in the area.

In any determination about the reasonableness of rent for a particular unit, a prospective tenant should consider factors such as location, quality, size, type, age, amenities, housing services, maintenance, and utilities to be supplied by the owner.

Rent reasonableness determinations will be performed in a documented, reasonable, and consistent manner. It is not, however, necessary, or cost-effective to try to quantifiably document or separately evaluate each of these criteria. To the extent possible, rent comparability will be based on rents paid for similar units in the same general location that are also generally similar in terms of the overall quality of housing services provided. Any procedures or documentation used will reflect this approach.

DHC's rent reasonableness determinations for multi-family properties shall be as outlined above. The rent reasonableness determinations for single family or other units that are not part of a multi-family housing complex shall include 2 or 3 comparable units. The unit and the comparable shall be maintained in the file.

DHC or its designee will utilize a database that includes data on unassisted units for use by staff in making rent reasonableness determinations.

2. 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 impose 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. If a unit to be assisted is located in a complex that is regulated by a government entity such as HUD, IRS, etc.; then DHC shall use the rent determined by the government entity as being reasonable.

In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants living in the property at the time of conversion, the owner must provide written notice to DHC and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing, and copies of the families' leases.

In the case of a multi-family property undergoing a Housing Conversion Action, the rents charged to those families that choose to remain at the property with their HCV assistance must not exceed the rents

charged for those existing tenants that do not qualify to accept the HCV assistance, even if the owner is charging new tenants higher rents. Owners of multi-family properties that underwent a Housing Conversion Action before the issuance of Notice PIH 2010-18 may also provide a notice to DHC at the time of a subsequent rent increase for voucher families, identifying families that resided in the property on the date of the eligibility event that did not receive a voucher. The owner must provide the same information and documentation that is required for new conversion actions, including evidence that the covered families resided in the property on the date of the eligibility event.

DHC, upon verifying the information submitted by the owner, will then exclude those units from future rent reasonableness determinations for the duration of the lower rents or concessions.

3. Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises. DHC will use the RFTA as a method to determine rent reasonable for multi-family units in accordance with HUD's PIH Notice 2003-12 and the RFTA signed by the owner.

By accepting DHC's 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 DHC information regarding rents charged for other units on the premises.

CHAPTER 9

GENERAL LEASING POLICIES

INTRODUCTION

This chapter covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract. For DHC to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) Contract with the owner of a dwelling unit, DHC will determine that all the following HCV Program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by DHC and meet the Housing Quality Standards (HQS AND/OR NSPIRE) or the National Standards for the Physical Inspection of Real Estate (NSPIRE) [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 DHC, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

The PHA will not screen applicants for family behavior or suitability for tenancy.

The PHA will not provide additional screening information to the owner.

9.1.A. TENANT SCREENING

DHC 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 DHC approval of the tenancy, DHC will inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

Upon receipt of a written request from the owner, DHC will provide the owner with the family's current and prior address as shown in the DHC records, and the name and address, if known to DHC, of the landlord at the family's current and prior address. [24 CFR 982.307 (b) (1)]. DHC is permitted, but not required, to offer the owner other information in DHC's possession about the family's tenancy [24 CFR 982.307(b)(2)]. DHC's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

9.1.B. REQUESTING TENANCY APPROVAL [FORM HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the HCV Program. Once a family finds a suitable unit and the owner is willing to lease the unit under the HCV Program, the owner and the family must request DHC to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to DHC:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for DHC to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless DHC has granted a request for reasonable accommodation for a person with disabilities who is a member of the participant's household.

For units constructed before 1978, owners must either:

- Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
- Attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

The RFTA must be signed by both the participant and the owner. The participant or representatives may submit the original RFTA in person, by mail, via fax, or electronically. DHC will not process, more than one (1) RFTA at a time. Incomplete RFTAs will not be processed.

Once the participant submits the RFTA, DHC will review the RFTA for completeness. If the RFTA is incomplete, including lack of signature by participant, owner, or both, and if the dwelling lease is not submitted with the RFTA, the RFTA will not be processed.

Missing information and/or missing documents will be accepted as hard copies, in- person, by mail, via fax, or electronically. DHC will not accept missing information over the phone.

When the participant submits the RFTA and proposed lease, DHC will review the terms of the RFTA for consistency with the terms of the proposed lease. If the terms of the RFTA are not consistent with the terms of the proposed lease, DHC will notify the participant and the owner of the discrepancies. Corrections to the terms of the RFTA and/or the proposed lease will be accepted in- person, by mail, via fax, or electronically. DHC will not accept corrections by phone. Because of the time sensitive nature of the tenancy approval process, DHC will attempt to communicate with the owner and participant by phone or email. DHC will use mail when the parties cannot be reached by phone, or email.

1. Owner Participation

DHC does not formally approve an owner to participate in the HCV Program. However, there are a number of criteria on which DHC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV Program [24 CFR 982.306€]. See Chapter 13 for a full discussion of owner qualification to participate in the HCV Program.

2. Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV Program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in DHC's jurisdiction. This includes the dwelling unit they are currently occupying.

3. Ineligible Units [24 CFR 982.352(a)]

DHC may not assist a unit under the HCV 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); a nursing home, a board and care home, or a facility providing continual psychiatric, medical, or nursing services; a college or other school dormitory; a unit 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.

4. DHC-Owned Units [24 CFR 982.352(b)]

DHC does have eligible DHC-owned units available for leasing. However, units designated as public housing units are not eligible.

5. Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, DHC to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space, where the family owns the

manufactured home and leases only the space, cooperative housing, and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that DHC has chosen to allow.

The regulations do require DHC to permit use of any special housing type if needed as a reasonable accommodation so that the HCV Program is readily accessible to and usable by persons with disabilities.

6. Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following other forms of 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.

7. Housing Quality Standards (HQS AND/OR NSPIRE) [24 CFR 982.305 and 24 CFR 982.401] or NSPIRE Standards [Notice PIH 023-28]

In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD's HQS AND/OR NSPIRE or National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS AND/OR NSPIRE, as well as the process for HQS AND/OR NSPIRE or NSPIRE inspection at initial lease-up.

8. Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS AND/OR NSPIRE space requirements [24 CFR 982.402(d)] or [24 CFR 5.703(d)(5)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

9. Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

10. Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9.1.C. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; DHC 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)]

1. Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease for the assisted family must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP Contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

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 HCV Program. 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.

DHC does not provide a model or standard dwelling lease for owners to use in the HCV Program.

2. Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all the required information as listed below:

- The names of the owner and the tenant and all household members.
- The unit rented (address, apartment number, and any other information needed to identify the contract unit).
- The term of the lease (initial term and any provisions for renewal).
- The amount of the monthly rent to owner.
- A specification of what utilities and appliances are to be supplied by the owner; and Utilities and appliances to be supplied by the family.
- What utilities and appliances are to be supplied by the owner, and the family.

3. Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP Contract.

DHC will approve an initial lease term of less than one (1) year in special circumstances only but will not approve an initial lease term of less than six months. During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309]. Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

4. Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. Michigan law requires that the security deposit be no more than one and one-half times the rental amount.

5. Separate Non-Lease Agreements between Owner and Tenant

The owner may not have two simultaneous separate leases for the unit being occupied by the tenant. Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus DHC's HAP 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)]. Owners and families may execute separate and reasonable cost, non-lease agreements for services, appliances, other than range and refrigerator, and other items that are not included in the lease. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in

the dwelling unit and where the family has the sole option of not utilizing the item, appliance, or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non- lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

6. DHC Review of Lease

DHC will review the dwelling lease for compliance with applicable requirements.

If the dwelling lease is incomplete or incorrect, DHC will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, or by mail. DHC will not accept missing and corrected information over the phone.

Because the initial leasing process is time sensitive, DHC will attempt to communicate with the owner and family by phone, or email. DHC will use mail when the parties cannot be reached by phone, fax, or email.

DHC will not review the owner's lease for compliance with state/local law, unless DHC has reason to believe that the lease does not comply with HCV Program requirements.

9.1.D. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's RFTA with the proposed dwelling lease, DHC will promptly notify the family and owner whether the assisted tenancy is approved. Before approving the assisted tenancy and execution of a HAP Contract, DHC will ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions are eligible units' determinations:

- The unit has been inspected by the PHA and meets NSPIRE or HQS AND/OR NSPIRE standards;
- The share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)].
- The rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family

1. Pre-Contract Execution

2. DHC will complete its pre-contract determinations within 20 business days of receiving all required information. DHC will determine whether:

a. The owner is an eligible owner, not disapproved by DHC, with no conflicts of interest [24 CFR 982.306].
b. The lease offered by the owner is approvable and includes the required Tenancy Addendum; and
c. 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)].

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with DHC, DHC will obtain written confirmation of the negotiated terms from the owner. Corrections to the RFTA and proposed lease will only be accepted as hard copies in-person or by mail. DHC will not accept corrections over the phone.

If DHC determines the tenancy is denied, the owner and the family will be notified in writing.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher. If the tenancy is not approvable due to rent affordability, including rent burden and rent reasonableness, DHC will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9.1.E. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP Contract is a written agreement between DHC, and the owner of the dwelling unit occupied by an HCV assisted family. Under the HAP Contract, DHC agrees to make HAP to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all HCV Program requirements. The HAP Contract format is prescribed by HUD.

If DHC has given approval of the assisted tenancy for the family, the owner and DHC 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)].

DHC may not pay any HAP to the owner until the HAP Contract has been executed. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, DHC will pay HAP after execution of the HAP Contract, in accordance with the terms of the HAP Contract, to cover the portion of the lease term before execution of the HAP Contract up to a maximum of 60 days. Any HAP Contract executed after the 60-day period is void and DHC may not pay any HAP to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to DHC. The owner and DHC will execute the HAP Contract. DHC will not execute the HAP Contract until the owner has submitted all required documents to DHC. DHC will ensure the owner receives a copy of the executed HAP Contract. See Chapter 13 for a discussion of the HAP contract and contract provisions.

9.1.F. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give DHC a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

DHC approval of tenancy and execution of a new HAP Contract are not required for changes in the lease. However, under certain circumstances, HCV assistance in the unit shall not be continued unless DHC has approved a new tenancy in accordance with HCV 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; or
- 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 RFTA along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify DHC of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. DHC will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner may either reduce the requested rent increase, keep the existing rental rate, or give the family notice in accordance with the terms of the lease. No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, DHC will determine whether the requested increase is reasonable within 60 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

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

CHAPTER 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

One of the key features of the HCV Program is the mobility of the assistance. The regulations at 24 CFR 982.353 provide that HCV participants may choose a unit that meets HCV Program requirements anywhere in the United States, provided that a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. Moves with continued assistance can occur both inside and outside of DHC's jurisdiction.

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the HCV program, whether the family moves to another unit within DHC's jurisdiction or to a unit outside DHC's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into DHC's jurisdiction. This part also covers the special responsibilities that DHC has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10.1.A. ALLOWABLE MOVES

HUD lists five (56) regulatory conditions and the statutory condition under the Violence Against Women Act (VAWA) under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in 24 CFR 982.314.

1. Regulatory Conditions to Move

A family may move to a new unit if:

- The assisted lease for the old unit has terminated. This includes a termination because:
  - DHC has terminated the HAP Contract for the owner's breach; or
  - The owner and tenant mutually agree to terminate the lease.
- The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant. The family must give DHC a copy of any owner eviction notice.
- The tenant has given notice of lease termination, if the tenant has a right to terminate the lease on notice to the owner, for owner breach or otherwise.

- The family has a right to terminate the lease on notice to the owner, for the owner's breach or otherwise, and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give DHC a copy of the notice at the same time [24 CFR 982.314354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314354(b)(1)(ii)].

2. DHC Requirements for Moves

Prior to any move request being approved, if a family's annual review is six months or older at the time of the anticipated move, the family must complete an income recertification.

If the family and the owner mutually agree to terminate the lease, the family must give DHC at least 30 days' notice of the intent to move on a form provided by DHC. DHC may approve exceptions for emergencies, VAWA or other concerns requiring urgent attention.

If the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314354(b)(2)], the family must give DHC a copy of any owner eviction notice [24 CFR 982.551(g)] within 10 business days of its receipt.

DHC will stop paying HAP effective the last day of the month when an intent to vacate is provided in accordance with DHC requirements. The notice of intent to vacate must be signed by all parties. If the participant is in the compliance window (i.e., under termination, has requested a hearing, etc.) at the time the notice of intent to vacate is submitted, a voucher will not be issued until the compliance issues have been resolved.

If DHC determines the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition, DHC will issue the family a new voucher and the family will find an acceptable unit as soon as possible. If an acceptable unit is available for the family, DHC will terminate the HAP Contract for the family's old unit in accordance with the HAP Contract terms and must notify both the family and the owner of the termination. The HAP Contract will terminate at the end of the calendar month that follows the calendar month in which DHC gives notice to the owner. [24 CFR 982.403(a) and (c)]

3. VAWA Condition to Move

VAWA provides that if otherwise in good standing, "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has

complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault , or human trafficking, engaged in by a member of the participant's household or any affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" [24 CFR 982.353(b)].

4. Moves

A participant family may move one or more times with continued assistance under the HCV program, either inside DHC's jurisdiction, or under the portability procedures. (See § 982.353)

10.1.B. RESTRICTIONS ON MOVES

1. Denial of Moves

DHC may only deny a family's request to move if it has grounds to do so under the program regulations, which are as follows:

- DHC has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
- The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982.353(c)).
- The family is an applicant and is not income-eligible (see 24 CFR 982.353(d)(1)) in the area in which they wish to initially lease a unit.
- DHC has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2), and the requested move does not comply with those policies.
- DHC does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

2. VAWA

If otherwise in good standing, VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, or human trafficking, engaged in by a member of a participant's household or any affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

3. Denying Family Requests to Move Due to Insufficient Funding

DHC may only deny a request to move to a higher cost unit within its jurisdiction or to higher cost area in accordance with 24 CFR 982.314354(e)(1) if DHC would be unable to avoid terminations of HCV assistance for current participants during the calendar year in order to remain within its budgetary allocation, including any available HAP reserves.

DHC will provide written notification to the local HUD Office when it determines it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

- 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.
- A statement certifying that DHC has ceased issuing vouchers and will not admit families from its waiting list while the limitation on moves to a higher cost unit is in place.
- A copy of DHC's policy stating how it will address families who have been denied moves. The requirements of the policy are described below.

For moves within DHC's jurisdiction, a "higher cost unit" is defined as a unit for which DHC 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). Before denying the

family's request to move due to insufficient funding, DHC will contact the receiving PHA and confirm via email or other confirmed delivery method whether the receiving PHA will administer or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. Once the receiving PHA makes the commitment to absorb the voucher, it cannot reverse its decision. If the receiving PHA is willing to absorb the family, there are no grounds for DHC to deny the portability move under 24 CFR 982.314354(e)(1).

DHC may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount therefore not resulting in an increased cost to DHC.

DHC **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 DHC's jurisdiction or to a higher cost area.

DHC **may not** deny requests to move, including portability moves, 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 DHC).

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, DHC may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program.

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 DHC is legally obligated to make HAP payments.

In any case where DHC denies a family's request to move in accordance with 24 CFR 982.314354(e)(1), DHC will be able to demonstrate how it determined that sufficient funding was unavailable when it denied the family's request to move.

4. Grounds for Denial or Termination of Assistance

DHC will deny a family permission to move because DHC has grounds to deny or terminate the family's assistance [24 CFR 982.314354(e)(2)] DHC will allow exceptions for emergencies, VAWA or other concerns requiring urgent attention.

If DHC has grounds for denying or terminating a family's assistance, DHC will act on those grounds in accordance with the regulations and policies set forth in Chapter12 DHC will grant a family permission to move if DHC has no grounds to deny or terminate the family's assistance for HCV program violations, (a thorough definition of program violations can be found in Chapter 12.

DHC will deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted, a move must be allowed under VAWA.

5. Frequency/Timing of Moves

Families will not be permitted to move more than once in a 12-month period unless required to do so by DHC to meet HQS or other HCV program standards or pursuant to VAWA. This policy applies to all assisted families residing in DHC's jurisdiction.

Families will not be permitted to move if the family has moved or been issued a voucher within the last six (6) months.

Families will not be permitted to move during the family's initial lease term. This policy applies to moves within DHC's jurisdiction or outside it under portability.

6. Exceptions to Restrictions on Moves

The Executive Director or designee may make exceptions to any restrictions set forth in this Part I on a case-by-case basis for the following reasons:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection program), or
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.
- To provide a reasonable accommodation of a disabled family member.

10.1.C. MOVING PROCESS

1. Notification

If a family wishes to move to a new unit, the family must notify DHC and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314354(d)(2)]. If the family wishes to move to a unit outside DHC's jurisdiction under portability, the notice to DHC will specify the area where the family wishes to move [24 CFR 982.314354(d)(2), Notice PIH 20112016-0309]. The notice must be in writing [24 CFR 982.5] and on a form provided by DHC.

Families must give at least a 30-calendar day Notice of Intent to Vacate before the family moves. HAP will end on the last date of the month of the move.

2. Approval

Upon receipt of a family's notification that it wishes to move, DHC will determine whether the family is in good standing in accordance with the regulations and policies set forth in this chapter.

A participant will be considered in good standing if the following conditions have been reviewed and verified by DHC:

- The participant is current on their payments toward any DHC repayment agreement.
- The family is not violating any family obligation under the voucher that may result in program termination.
- Good standing with the landlord is determined by DHC contacting the landlord based on statements made on the Intent to Vacate.

Families that wish to move must contact their Housing Specialist. If the family is eligible to move, the Housing Specialist will assign the date and time for the family to attend a transfer briefing as required. DHC will notify the family in writing of its determination within 15 business days following receipt of the family's notification.

If the notice is returned by the post office, a second letter will be mailed to the address of record. If returned by the post office, a pending program termination notice will be mailed to the family as the family may have moved without authorization.

3. Re-examination of Family Income and Composition

For families approved to move to a new unit within DHC's jurisdiction, DHC may perform a new annual re-examination in accordance with the policies set forth in Chapter 11.

For families moving into or families approved to move out of DHC's jurisdiction under portability, DHC will follow the policies set forth in Part II of this chapter.

4. Voucher Issuance and Briefing

A transfer briefing is required for families approved to move to a new unit within DHC's jurisdiction. DHC will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration.

If the family cancels the Intent to Vacate notice, with the owner's written approval before the contract expiration date, the voucher will be expired, and the family may remain in its current unit with continued HCV assistance.

If the family choses to cancel the Intent to Vacate after the contract expiration date, a Request for Tenancy Approval must be submitted on that unit, the unit must be inspected, and a new contract must be executed. Otherwise, the family may lose its HCV assistance.

For families moving into or families approved to move out of DHC's jurisdiction under portability, DHC will follow the policies set forth in Part II of this chapter.

5. Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, DHC may not make any HAP to the owner for any month after the month the family moves out.

If a family moves from an assisted unit with continued HCV assistance, the term of the assisted lease for the new assisted unit should begin after the unit passes HQS inspection but no sooner than the contract end date of the previous unit.

The Executive Director or designee may make exceptions to this requirement on a case-by-case basis to minimize family hardship.

PART II: PORTABILITY

10.2.A. OVERVIEW

Within the limitations of the regulations and this Admin Plan, a participant family or an applicant family that has been issued a voucher has the right to use HCV assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering an HCV Program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the initial PHA. The second is called the receiving PHA.

Program regulations covering where a family may move and the responsibilities of the initial PHA and the receiving PHA are found at 24 CFR 982.353 through 982.355.

10.2.B. 10-2 B. INITIAL AND RECEIVING PHAS

When a family moves under portability, the receiving PHA may choose the option of:

- Administering the family's voucher for the initial PHA; or
- Absorbing the family into its own HCV Program.

Under the first option, the receiving PHA bills the initial PHA for the family's HAP 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 HCV Program funds, and the initial PHA has no further relationship with the family.

A PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. DHC will follow the rules and policies in this chapter when it is acting as the initial or the receiving PHA for a family.

1. Initial PHA Responsibilities - Contacting the Receiving PHA

When a family wishes to move under portability, the family must inform the initial PHA of the area to which the family wishes to move. In the case of an applicant, applicant's family, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move. If the family is not income eligible in the area to which the family wishes to move, the initial PHA must inform the applicant family they may not move to the area in question and receive HCV assistance. Income eligibility is not re-determined when a participant family exercises portability.

The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will bill or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the family's request. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the portability request.

Once the portability request is approved, the initial PHA will issue the family a voucher and must contact the receiving PHA on the family's behalf. The initial PHA must

promptly notify the receiving PHA to expect the incoming family (see section 24 CFR 982.355(c)(2)). This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email.

Simply referring the family to HUD or to a website for information on the receiving PHA's address does not fulfill the initial PHA's responsibilities under the HCV Program regulations. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA, e.g., the name and telephone number of the staff person responsible for working with incoming ported families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA. The Form HUD-2665, Family Portability Information, contains a line that the initial PHA will use to identify the receiving PHA.

2. Initial PHA Responsibilities - Part I of the Form HUD-52665

Once the family is approved to move using portability, the initial PHA will complete Part I of the Form HUD-52665 and mail or fax it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification supporting the form. In the case of an applicant family, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the initial PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.)

Part I of the Form HUD-52665 provides the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA. The initial billing submission must be completed and mailed by the receiving PHA within 15 days of the HAP Contract execution but no later than 60 days following the expiration date of the family voucher issued by the initial PHA.

If the initial PHA has not received a billing notice by the deadline and intends not to accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA informs the receiving PHA that it will not honor a late billing, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on

behalf of the family, it should return the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family.

In certain circumstances, HUD may require the initial PHA to accept the late billing, such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may act to address the receiving PHA's failure to do so, which may include reducing the receiving PHA's administrative fee.

Additionally, HUD may subsequently transfer units and funding from the receiving PHA to the initial PHA when it is feasible, if the initial PHA was required to accept the late billing.

3. Receiving PHA Responsibilities - Processing Responsibilities

The receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry to determine if the family's voucher will be billed or absorbed. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. If the receiving PHA notifies the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date. This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease and vacated their assisted unit and moved to the new jurisdiction at risk of losing their assistance.

After receiving the Form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly re-issue a voucher to the family for its search in the receiving PHA jurisdiction, the term of which may not expire before the expiration date of the initial PHA's voucher. HUD expects the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD- 52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

A receiving PHA should not process the family if the initial PHA's voucher has already expired when it receives the paperwork from the initial PHA but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of its voucher and the billing deadline before the receiving PHA would process the portability move in such an instance.

The receiving PHA does not re-determine income eligibility for a portable family that was already receiving HCV assistance and may not delay the family's housing search in issuing the voucher. DHC will conduct a criminal history background and review the Sex Offender Registry for all adult members of the household on all families porting in. and for families that have already received HCV payments from the

initial PHA, DHC may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed.

However, the receiving PHA may take subsequent action, e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the HCV 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 or otherwise delay approval of a unit only if the re-examination is necessary to determine income eligibility. For example, if the applicant family initially reported they had no earned income, but they are moving because they obtained new employment, the receiving.

PHA may need to conduct a re-examination of income to ensure the family is income eligible in the receiving PHA's jurisdiction.

The receiving PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA's procedures. In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR 982.554 or 982.555.

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should bear in mind the billing deadline that is based on the expiration date of the voucher issued by the initial PHA.

Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a Request for Tenancy Approval, execute a HAP Contract, and cover the anticipated delivery time, if the receiving PHA is not submitting the billing information by fax or email, so that it will be received by the initial PHA by the deadline date.

If an incoming ported family ultimately decides not to lease in the jurisdiction of the receiving PHA, but instead wishes to return to the initial PHA or wishes 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 extensions of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. Any extensions of the initial PHA's 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. The receiving PHA may absorb the family into its own program once the HAP Contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so, and such a decision will not result in over-leasing for the calendar year.

The receiving PHA may also absorb a ported family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family.

Although a receiving PHA notifies THE INITIAL PHA of its intent to absorb an incoming family early in the portability process, the receiving PHA does not technically "absorb" a family into its HCV Program until the receiving PHA executes a HAP Contract on behalf of the family in the receiving PHA jurisdiction. PHAs may not engage in sham or fake portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under HAP Contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.

10.2.C. DHC IN THE INITIAL PHA ROLE

1. Allowable Moves under Portability

A family may move with HCV assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the initial PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and the initial PHA's policy, determines whether a family qualifies.

2. Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the initial PHA discretion to deny a portability move by an applicant family for the same reasons that it may deny any move by a participant family:

- DHC has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
- The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982.353(c)).
- The family is an applicant and is not income-eligible (see 24 CFR 982.353(d)(1)) in the area in which they wish to initially lease a unit.
- DHC has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2), and the requested move does not comply with those policies.

- DHC does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

3. VAWA

VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, or human trafficking, engaged in by an affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

4. Frequency/Timing of Moves

If the head of household, the co-head or the spouse of an applicant family did not have a domicile (legal residence) in DHC's jurisdiction at the time of the applicant family's application for HCV assistance was submitted, the family must live in DHC's jurisdiction with HCV assistance for at least 12 months before requesting portability.

DHC will consider exceptions to this policy for purposes of reasonable accommodation. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

5. Denying Family Requests to Move Due to Insufficient Funding

DHC may only deny a request to move to a higher cost unit within its jurisdiction or to higher cost area in accordance with 24 CFR 982.314(e)(1) if DHC would be unable to avoid terminations of HCV assistance for current participants during the calendar year in order to remain within its budgetary allocation, including any available HAP reserves.

DHC will provide written notification to the local HUD Office when it determines it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

- 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.
- A statement certifying that DHC has ceased issuing vouchers and will not admit families from its waiting list while the limitation on moves to a higher cost unit is in place.
- A copy of DHC's policy stating how it will address families who have been denied moves. The requirements of the policy are described below.

For moves within DHC's jurisdiction, a "higher cost unit" is defined as a unit for which DHC 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). Before denying the family's request to move due to insufficient funding, DHC will contact the receiving PHA and confirm via email or other confirmed delivery method whether the receiving PHA will administer or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. Once the receiving PHA makes the commitment to absorb the voucher, it cannot reverse its decision. If the receiving PHA is willing to absorb the family, there are no grounds for DHC to deny the portability move under 24 CFR 982.314(e)(1).

DHC may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount therefore not resulting in an increased cost to DHC.

DHC **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 DHC's jurisdiction or to a higher cost area. However, DHC may deny if DHC does not have sufficient funding for continued assistance.

DHC **may not** deny requests to move, including portability moves, 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 DHC).

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, DHC may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program.

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 DHC is legally obligated to make HAP payments.

In any case where DHC denies a family's request to move in accordance with 24 CFR 982.314(e)(1), DHC will be able to demonstrate how it determined that sufficient funding was unavailable when it denied the family's request to move.

6. Grounds for Denial or Termination of Assistance

DHC may deny a family permission to move because DHC has grounds to deny or terminate the family's assistance [24 CFR 982.314(e)(2)].

If DHC has grounds for denying or terminating a family's assistance, DHC will act on those grounds in accordance with the regulations and policies set forth in Chapter 12.

DHC will grant a family permission to move if DHC has no grounds to deny or terminate the family's assistance for HCV program violations, a thorough definition of program violations can be found in Chapter 12.

DHC will deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted, a move must be allowed under VAWA.

7. Exceptions to Restrictions on Moves

The Executive Director or designee may make exceptions to any restrictions set forth in this Part II on a case-by-case basis for the following reasons:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection program), or
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.
- To provide a reasonable accommodation of a disabled family member.

8. Participant Families

DHC will not provide portability assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b)]

9. Determining Income Eligibility

a. Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)]..[Notice 2011-03].

DHC is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, DHC will inform the family that it may not move there and receive voucher assistance [Notice PIH 20112016-0309].

Reverification of family income and composition by DHC is required for an applicant family.

b. Participant Families

The income eligibility of a participant family will not be redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

For a participant family approved to move out of its jurisdiction under portability, DHC will conduct a re-examination of family income and composition based upon DHCs policy for annual re-examination at the time of the move.

10. Briefing

DHC may require a participant family wishing to move outside DHC's jurisdiction under portability to attend a briefing. However, DHC 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. DHC will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. DHC will advise the family which PHA's policies and procedures that they will be under, including subsidy standards and voucher extension policies.

11. Voucher Issuance and Term

DHC will issue a new voucher to an applicant family or a participant family within 15 business days of DHC's written approval to move.

The initial term of the voucher will be 60 days.

12. Voucher Extensions and Expiration

DHC will not approve extensions to a voucher issued to an applicant or participant family porting out of DHC'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.
- The family decides to return to DHC's jurisdiction to search for a unit; or
- The family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5 will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving HCV assistance under DHC's HCV 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 DHC's voucher, including any extensions. (See below under "Initial Billing Deadline" for one exception to this policy.)

13. Initial Contact with the Receiving PHA

Since the portability process is time sensitive, DHC will notify the receiving PHA by phone, fax, or e-mail to expect the family. DHC will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e- mail, and telephone number of the staff person responsible for business with incoming ported families and procedures related to appointments for voucher issuance. DHC will pass this information along to the family. DHC will also ask for the name, address, telephone number, fax, and email of the person responsible for processing the billing information.

14. Sending Documentation to the Receiving PHA

DHC is required to send the receiving PHA the following documents [Notice PIH 2011- 03]:

- 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 [24 CFR 982.355(c)(4)].
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4)].

In addition to these documents, DHC will provide the following information, if available, to the receiving PHA:

- Social Security Numbers (SSNs).
- Documentation of SSNs in the file.
- Documentation of legal identity.
- Documentation of citizenship or eligible immigration status.
- A copy of the family's current EIV data.
- Documentation of participation in the earned income disallowance (EID) benefit; and
- Documentation of participation in a family self-sufficiency (FSS) program.

DHC will notify the family in writing regarding any information provided to the receiving PHA.

15. Initial Billing Deadline [Notice PIH 20161-0309]

If the DHC has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, which will be 60 days following the expiration date of the voucher issued to the family by DHC, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the receiving PHA reports that the family is not yet under HAP Contract, DHC will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. DHC will send the receiving PHA a written confirmation of its decision by mail.

DHC 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.

If the receiving PHA reports that the family is under HAP Contract and the receiving PHA cannot absorb the family, and the receiving PHA is not drawing families from its current HCV waitlist, DHC will accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

16. Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 20112016-0309]

If the receiving PHA is administering the family's voucher, DHC is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after DHC receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept. DHC will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies DHC that direct deposit is not acceptable to them.

DHC may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. DHC will manage its HCV 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 PHA's as well as for families that remain within its jurisdiction.

17. Annual Updates of Form HUD-50058

If DHC is being billed on behalf of a ported family, it should receive an updated form HUD-50058 each year from the receiving PHA. If DHC fails to receive an updated 50058 by the family's annual re-examination date, DHC should contact the receiving PHA to verify the status of the family.

18. Subsequent Family Moves

DHC has the authority to deny subsequent moves by ported families that it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If DHC determines that it must deny moves on the grounds that it lacks sufficient funding, it will notify all receiving PHA's with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by ported families from DHC's jurisdiction.

DHC will allow exceptions to this policy for purposes of reasonable accommodation of a disabled family member.

19. Outside the Receiving PHA's Jurisdiction [Notice PIH 20112016-0309]

If DHC is assisting a ported family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, DHC 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 DHC's voucher necessary to allow the family

additional search time to return to DHC's jurisdiction or to move to another jurisdiction are at the discretion of DHC.

20. Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If DHC has grounds for denying or terminating assistance for a ported family that has not been absorbed by the receiving PHA, DHC may act on those grounds at any time.

10.2.D. DHC IN RECEIVING PHA ROLE

If a family has a right to lease a unit in DHC's jurisdiction under portability, DHC will provide assistance for the family [24 CFR 982.355(10)].

DHC's procedures and preferences for selection among eligible applicants do not apply, and DHC's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher size will be determined in accordance with DHC's subsidy standards, and the amount of the family's HAP payment is determined in the same manner as for other families in DHC's HCV Program [24 CFR 982.355(e)(2)].

1. Initial Contact with Family

When a family moves into DHC's jurisdiction under portability, the family is responsible for promptly contacting DHC and complying with DHC's procedures for incoming ported families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, DHC will not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 20112016-0309].

Within 15 business days after a ported family requests assistance, DHC will notify the initial PHA whether it intends to bill the initial PHA on behalf of the ported family or absorb the family into its HCV Program. If DHC initially bills the initial PHA for the

family's assistance, it may later decide to absorb the family into its own HCV Program [Notice PIH 20112016-0309].

If for any reason the DHC refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 20112016-0309].

2. Briefing

DHC will require the family to attend a briefing. DHC will provide the family with a briefing packet and inform the family about DHC's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

3. Income Eligibility and Re-examination

For any family moving into its jurisdiction under portability, DHC will conduct a re- examination of family income and composition. However, DHC will not delay issuing the family a voucher for this reason. Nor will DHC delay approving a unit for the family until the re-examination process is complete unless the family is an applicant and DHC cannot otherwise confirm that the family is income eligible for admission to the HCV Program in the area where the unit is located.

In conducting its own re-examination, DHC will rely upon any verifications provided by the initial PHA to the extent that they accurately reflect the family's current circumstances and 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.

4. Voucher Issuance

When a family moves into its jurisdiction under portability, DHC is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to DHC during the term of DHC's voucher [24 CFR 982.355(c)(6)].

a. Timing of Voucher Issuance

When a family moves into its jurisdiction under portability, DHC will issue the family, within 10 business days, 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 DHC's procedures. DHC will update the family's information when verification has been completed.

b. Voucher Term

DHC must issue a voucher to the ported family that does not expire before 30 calendar days from the expiration date of the initial PHA's voucher. DHC must contact the initial PHA if the family's voucher expires before the family arrives at the receiving PHA, to determine whether the initial PHA will extend the voucher.

c. Voucher Extensions [24 CFR 982.355(c)(6), Notice 20112016-0309]

DHC generally will not extend the term of the voucher that it issues to an incoming ported family unless DHC plans to absorb the family into its own HCV Program.

DHC will consider an exception to this policy as a reasonable accommodation to a disabled family member.

If DHC grants additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA.

Unless willing and able to absorb the family, DHC should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

d. Notifying the Initial PHA

DHC will promptly notify the initial PHA if the family has leased an eligible unit under the HCV Program or if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of DHC's voucher [24 CFR 982.355(c)(8)]. DHC is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 20112016-0309].

If an incoming ported family ultimately decides not to lease in DHC's jurisdiction and instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, DHC will 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 DHC is only valid for the family's search in DHC's jurisdiction. [Notice PIH 20112016-0309]

10.2.E. ADMINISTERING A PORTABLE FAMILY'S VOUCHER

1. Initial Billing Deadline

If a ported family's search for a unit is successful and DHC intends to administer the

family's voucher, DHC will submit its initial billing notice (Part II of form HUD-52665) no later than 10 business days following the date DHC executes a HAP Contract on behalf of the family and in such 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 [Notice PIH 20112016-0309]. A copy of the family's form HUD-50058, Family Report, completed by DHC will be attached to the initial billing notice. DHC may send these documents by mail, fax, or e-mail.

DHC will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If DHC fails to send the initial billing within 10 business days following the date the HAP Contract is executed, it is required to absorb the family into its own HCV Program unless the initial PHA is willing to accept the late submission or HUD requires the initial PHA to honor the late submission, e.g., because DHC is over leased [Notice PIH 2011- 03].

2. Ongoing Notification Responsibilities [Notice PIH 20112016-0309, HUD-52665]

a. Annual Re-examination

DHC will send the initial PHA a copy of a ported family's updated form HUD-50058 after each annual re-examination for the duration of time DHC is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

DHC will send a copy of the updated HUD-50058 by regular mail at the same time the participant and owner are notified of the re-examination results.

b. Change in Billing Amount

DHC is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a re-examination, 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; or
- Termination of the family from the HCV Program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

c. Late Payments [Notice PIH 20112016-0309]

If the initial PHA fails to make a monthly payment for a ported family by the fifth business day of the month, DHC will 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). DHC will send a copy of the notification to the local HUD area office with jurisdiction over DHC. If the initial PHA fails to correct the problem by the second month following the notification, DHC may request by memorandum to the director of the local HUD office with jurisdiction over the initial PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHA's on the matter must be attached. DHC will send a copy of the memorandum to the initial PHA. If the of the local HUD office with jurisdiction over the initial PHA 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 DHC.

d. Overpayments [Notice PIH 20112016-0309]

In all cases where DHC has received billing payments for billing arrangements no longer in effect, DHC 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 (3) months because DHC failed to notify the initial PHA that the billing arrangement was terminated, DHC will 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 local HUD area office with jurisdiction over DHC of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, DHC will be subject to the sanctions spelled out in Notice PIH 20112016-0309.

e. Denial or Termination of Assistance

At any time, DHC may decide to deny or terminate assistance to a ported family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR

982.355(c)(10)].

DHC will terminate a family for debts owed to other PHAs. (See Chapter 12)

In the case of a termination, DHC should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should DHC fail to notify the initial PHA later than 10

business days following the effective date of the termination of the billing arrangement. [Notice PIH 20112016-0309]

If DHC elects to deny or terminate assistance for a ported family, DHC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. DHC will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. DHC will furnish the initial PHA with a copy of the review or hearing decision.

f. Absorbing a Ported Family

DHC may absorb an incoming ported family into its own HCV Program when DHC executes a HAP Contract on behalf of the family or at any time thereafter providing that DHC has funding available under its annual contributions contract (ACC) and absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 20112016-0309].

If DHC absorbs a family from the point of admission, the admission will be counted against DHC's income-targeting obligation [24 CFR 982.201(b)(2)(vii)].

If DHC decides to absorb a ported family upon the execution of a HAP Contract on behalf of the family, DHC 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 DHC decides to absorb a family after that, it will provide the initial PHA with 30 days advance notice.

Following the absorption of an incoming ported family, the family is assisted with funds available under the consolidated ACC for DHC's HCV Program [24 CFR 982.355(d)], and DHC becomes the initial PHA in any subsequent moves by the family under portability.

CHAPTER 11

REEXAMINATIONS

INTRODUCTION

The DHC is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and DHC's policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11.1.A. OVERVIEW

The DHC must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the DHC must determine the income of the family for the previous 12-month period, except where the DHC uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. DHC also has the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter

7 contains the DHC's policies related to streamlined income determinations and the use of safe harbor income verifications.

11.1.B. SCHEDULING ANNUAL REEXAMINATIONS

The DHC must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

DHC's Policy

The DHC will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the DHC will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the DHC will perform a new annual reexamination.

The DHC also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The DHC is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the DHC. However, the DHC should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

DHC Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the DHC to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the DHC in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the DHC will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without DHC approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the DHC must execute a certification attesting to the role and the assistance provided by any such third party.

11.1.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the DHC regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

DHC Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a DHC-designated reexamination form as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

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 (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations DHC asks whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

DHC Policy

At the annual reexamination, the DHC will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The DHC will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the DHC proposes to terminate assistance based on lifetime sex offender registration information, the DHC must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the DHC has reason to believe a change has occurred

in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS/NSPIRE) (see Chapter 8), the DHC must issue the family a new voucher, and the family and DHC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the DHC must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11.1.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(B)(5)]

Section 327 of Public Law 109-115 established restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents or is considered a vulnerable youth in accordance with DHC policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

DHC Policy

During the annual reexamination process, the DHC will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from their parents or is considered a vulnerable youth based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the DHC will process a reexamination in accordance with the policies in this chapter.

11.1.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(C)(2) AND NOTICE PIH 2023-27]

The DHC must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the DHC uses a streamlined income determination as indicated in Chapter 7 of this policy. The DHC may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The DHC should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for DHC policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The DHC determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD–50058; and

- The amount of prior-year income reported by the family on the DHC's annual reexamination paperwork.

Step 2: The DHC takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the DHC must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the DHC did not perform an interim or there have been changes since the last reexamination, the DHC moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

11.1.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

PHA Policy

In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a decrease in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; NOTICE PIH 2023-27]

11.2.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

11.2.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

PHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), 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 family's HAP contract in accordance with its terms [24 CFR 982.403].

PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the PHA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

PHA Policy

If a household member ceases to reside in the unit, the family member (including a live in aide) must inform the PHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

11.2.C. CHANGES AFFECTING INCOME OR EXPENSES

Overview

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or

- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

PHA Policy

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

PHA Policy

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in

income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

11.2.D. EFFECTIVE DATES [24 CFR 982.516(E) AND NOTICE 2023-27]

Changes Reported Timely [Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

The PHA will also clearly communicate the effect of the retroactive adjustment to the owner.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11.3.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11.3.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

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

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

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

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has decreased, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains

in effect. At the family's second annual reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's first annual reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11.3.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

11.3.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [NOTICE PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as non-interim reexamination transactions. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;

- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

EXHIBIT 11-1: CALCULATING Income AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:

Wages: $30,000 Georgia:

SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby: Georgia:

Wages Total: $33,651 SSI Total: $10,980

Quarter 3 of 2023: $8,859 (City Public School) 2023 benefit $915 monthly

Quarter 2 of 2023: $8,616 (City Public School)

Quarter 1 of 2023: $8,823 (City Public School)

Quarter 4 of 2022: $7,353 (City Public School)

<u>Income Reported on Reexamination Application</u>

Ruby:

Wages at City Public School: $32,000 (switched jobs but no permanent change to amount) Georgia:

SSI benefits: $10,980 (no changes)

Calculating Ruby's wages:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income. Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: $64.05 ($915 x 0.07)

New gross SSI benefit: $11,748.60 ($979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: $33,651

Myers Family Total Annual Income: $45,399 Georgia (Other Youth Under 18):

SSI: $11,748

Example 2: Calculating Annual Income at Annual Reexamination Using EIV:

Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at

Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: $28,000

The EIV report pulled on 1/15/2024

Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: $0 (permanent change; no longer receiving)

Social Security: $14,400 ($1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): $14,400 (SS)

Hewson Family Total Annual Income: $14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: $28,000

VA disability pension: $12,000

Child support: $2,400 Fergus:

Wages: $8,250

Other non-wage income: $3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16/2024

Samantha: Fergus:

Wages Total: $0 (no wage data reported since Q1 2023) Wages Total: $8,600

Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: $1,800 (The Onion Garden Shop)

Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Business income: $28,750 (last year); has decreased to $18,000 (permanent change)

VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)

Child support: $2,400 (last year); has decreased to $1,200 (permanent change) Fergus:

Wages: $6,000

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional

paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: $18,000

Pension: $12,300

Child support: $1,200 Fergus (Co-head):

Wages: $9,360

Poole Family Total Annual Income: $40,860

CHAPTER 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which DHC can terminate a family's assistance and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance and termination of tenancy by the owner, and the policies and procedures for such terminations. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by DHC based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that DHC may consider in lieu of termination, the criteria DHC must use when deciding what action to take and the steps DHC must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12.1.A. OVERVIEW

HUD requires DHC to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits DHC 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 DHC.

12.1.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of DHC subsidy goes down. If the amount of HCV assistance provided by DHC drops to zero and remains at zero for 180 consecutive calendar 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 DHC of the changed circumstances and request an interim re-examination before the expiration of the 180-day period. The family will not be permitted to be assisted in a new unit if the HAP assistance provided by DHC would be zero. If the family proceeds with the move the family will be terminated from the program due to the Zero HAP.

The zero-income provision does not apply to the PBV program. If a PBV unit is occupied by a family for which housing assistance is no longer required, the PHA has the option of removing the unit from the PBV/HAP contract or substituting the unit with a comparable unit in the development for occupancy by another PBV eligible family rather than hold off on the use of assistance for six months.

12.1.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that DHC terminate the family's assistance at any time. Family terminations of the lease must be in accordance with the terms of the lease. See Chapter 10 on “Moves with Continued Assistance”.

The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family’s assistance, DHC will follow the notice requirements as stated in this chapter.

When a participant voluntarily terminates from the program, the termination effective date is the earliest of 1) the last date of the month in which the family vacated the unit, or 2) the last day of the "self-termination" month stated in the participant provided written notification to DHC of the voluntary termination. The family notice of "self- termination" needs to include the effective date of the self-termination. The self- termination notice must also be provided to the property owner. When possible, based on timing, DHC will work to provide the owner with a 30-day notice of contract termination. When the program participant self-terminates, DHC's policies for appeals and hearings are not applicable since the action is participant-initiated and not the result of DHC action.

12.1.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires DHC to terminate assistance in the following circumstances:

1. Eviction [24 CFR 982.552(b) (2)],), 24 CFR 5.2005(c)(1)]

DHC 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.

A family will be considered evicted if the family moves after a Writ of Restitution has been issued and a bailiff has removed the family’s belongings.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a bailiff removes the family’s belongings, termination of assistance is not mandatory. In such cases DHC will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-2C. In making its decision, DHC will consider the factors described in sections 12-2D and 12-2E. Upon consideration of such factors, DHC may, on a case-by-case basis, choose not to terminate assistance. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

Serious and repeated lease violations will include, but not be limited to, non-payment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

It is a family obligation to provide copies to DHC of all notices issued to them by the landlord within 10 business days following receipt of any notice. Failure to do so is grounds for termination of assistance.

If the notice of termination issued by the landlord is for cause, DHC shall review the basis for the termination to determine if the violation of the lease is also a violation of the family’s obligations under the voucher, and if DHC should begin an investigation that could lead to the termination of the family from the HCV program.

2. Failure to Provide Consent [24 CFR 982.552(b) (3)]

DHC must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a re-examination.

3. Failure to Document Citizenship [24 CFR 982.552(b) (4) and [24 CFR 5.514(c)]

DHC must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by DHC, 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 non-citizens already in the household where the family's assistance has been pro-rated.

4. Failure to Provide Social Security Number Documentation [24 CFR 5.218(c)]

DHC must terminate assistance if a participant family fails to provide the documentation or certification required for any family member social security number.

If the family is otherwise eligible for continued program assistance, and DHC determines (1) the family's failure to meet the SSN disclosure and documentation requirements are due to circumstances that could not have been foreseen and were outside the family's control and (2) there is a reasonable likelihood that the family will be able to disclose the SNN and provide the SSN documentation by the deadline, DHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 30 calendar days from the date DHC determined the family to be non-compliant.

5. Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b) (5)]

If a student enrolled at an institution of higher education is:

- under the age of 24
- is not a veteran
- is not married
- does not have a dependent child
- is not a person with disabilities receiving HCV assistance as of November 30, 2005?

DHC must terminate the student's assistance if, at the time of re-examination, 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 DHC policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

6. Methamphetamine Manufacture or Production [24 CFR 982.553(b) (1) (ii)]

DHC 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.

7. Lifetime Registrant on State Sex Offender Registry

DHC must terminate assistance determines that a participant is a lifetime registrant on a state sex offender registry. This mandatory termination will occur if the member of the household was subject to a state sexual offender lifetime registration requirement at the time of admission into the HCV Program and was erroneously admitted into the HCV Program or if the member of the household became subject to a state sexual offender lifetime registration requirement after being admitted into the HCV Program.

DHC will offer the family the opportunity to remove the ineligible family member from the household but must terminate assistance if the family is unwilling to remove the offending household member.

8. Death of the Sole Family Member

The PHA must immediately termination the program assistance for deceased single household members. Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive

12.1.E. OTHER AUTHORIZED TERMINATIONS

1. Use of Illegal Drugs, Marijuana, and Alcohol Abuse

The legalization of marijuana in the State of Michigan directly conflicts with the HUD definition of a controlled substance in Section 102 of the Controlled Substances Act. The conflicting State and Federal laws present a challenge to administer a federally funded Housing Choice Voucher Program. As a result, DHC will apply the following standards when considering if a participant's housing should be terminated with a local official property manager, property owner or DHC staff member witness the possession and/or use of marijuana in an assisted unit via an HQS Inspection or are made aware of a participant's use of marijuana that results in:

- Violation of the lese.
- HQS breach caused by the family or visitor (invited or uninvited).
- Verbal or written law enforcement report of criminal activity.

DHC 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 of other residents. DHC will terminate assistance if any household member's abuses or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises of other residents.

DHC may, within its discretion, terminate the assistance of individual medical marijuana users, rather than an entire household.

Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

DHC will consider all credible evidence, including by not limited to, police reports, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs, or abuse of alcohol.

A record of arrest(s) will not be used as the basis for termination or proof that the participant engaged in disqualifying criminal activity.

DHC, in its sole discretion, may terminate a participant's assistance when a subsequent criminal screening shows that an arrest and/or charge has been adjudicated and the participant was found guilty or pled nolo contender. In these instances, the participant may be subject to termination based on either the judicial or sentencing date.

In making its decision to terminate assistance, DHC will consider alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

a. New Admissions

HUD prohibits admission of participants into the HCV Program who engage in the current illegal use of controlled substances, including state legalized medical marijuana. State laws that legalize medical marijuana directly conflict with HUD admission requirements and are thus subject to federal preemption.

b. Other Illegal Drugs

DHC 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.

Currently engaged in is defined as any use of illegal drugs during the previous 12 months.

In making its decision to terminate assistance, DHC will consider alternatives as described in this chapter. Upon consideration of such alternatives and factors, DHC may choose not to terminate assistance.

c. Treatment

If the household member has been charged or convicted for a drug related-criminal activity involving use or possession, but not production, manufacture, or sale, the family's housing assistance will not be terminated if the household member is no longer engaging in any drug activity and is actively participating in a supervised drug treatment program within sixty (60) days of DHC's notification to the head of household of drug- related criminal activity. Failure to actively participate in or complete the drug treatment program successfully, will result in termination of the assistance for the entire household.

d. Alcohol Abuse

DHC 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.

2. 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.

DHC 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.

DHC will consider all credible documentation, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, any eviction or notice to evict based on drug-related or violent criminal activity, police reports and search warrants.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

DHC further defines examples of violent criminal activity to include but not be limited to rape, murder, robbery, arson, assault, and home invasion.

In making its decision to terminate assistance, DHC will consider alternatives as described elsewhere in this chapter. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

If the household member has been charged or convicted for a drug-related criminal activity involving use or possession, but not production, manufacture, or sale, the family's housing assistance will not be terminated if the household member is no longer engaging in any drug activity and is actively participating in a supervised drug treatment program within sixty (60) days of DHC's notification to the head of household of drug-related criminal activity. Failure to actively participate in or complete the drug treatment program successfully, will result in termination of the assistance for the entire household.

3. Other Reasons to Terminate

DHC will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

DHC will terminate a family's assistance if:

- The family has failed to comply with any family obligations under the HCV Program. Any family member has been evicted from federally assisted housing in the last three 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.
- The family currently owes rent or other amounts to any PHA, , in connection with federal housing programs.
- The family has not reimbursed DHC for amounts DHC paid to an owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with DHC or other DHC.
- The family has breached any part of the HCV Program.
- A family member has engaged in or threatened violent or abusive behavior toward DHC personnel or agents.

- Abusive or violent behavior towards DHC personnel or agents 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, DHC will consider alternatives as described elsewhere in this chapter.

4. Family Absence from the Unit [24 CFR 982.312]

If all members of the household are absent for thirty (30) consecutive days, but have not moved from the unit, and DHC has determined the unit to be abandoned, assistance will be terminated. In order to determine if the family is absent from the unit, DHC may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, statement made by the participant or family member, perform inspections to the unit, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth later in this Admin Plan. Returned mail shall be just caused to make the determination that the unit has been abandoned. Termination of assistance shall occur the last day of the month in which DHC determined the unit to be abandoned.

5. Insufficient HAP Funding [24 CFR 982.454]

DHC may consider terminating assistance if the Executive Director determines there is insufficient HAP funding.

6. Failure to Reimburse DHC

DHC will terminate a family that breaches an agreement to reimburse DHC for any amounts paid on the family's behalf by DHC.

7. Fleeing to Avoid Prosecution

DHC may terminate a family if DHC determines that a member of the household is fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the laws of the place from which the individual flees.

8. Violation of Probation or Parole

DHC may terminate a family if DHC determines that a member of the household is violating a condition of probation or parole imposed under federal or state law.

9. Family Obligations

DHC may terminate assistance for a participant who violates the family obligations listed in 24 CFR 982.551 and/or the following family obligations:

- The family must supply any information that DHC or HUD determines to be necessary for the administration of the HCV Program, including submission of required evidence of citizenship or eligible immigration status.

- The family must supply any information requested by DHC or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- All information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach caused by the family as described in 24 CFR 982.404(b).
- The family must allow DHC to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8.
- The family must not commit any serious or repeated violation of the lease. VAWA related activities will not be considered as serious lease violations by the victim or threatened victim.
- The family must notify DHC and the owner in writing before moving out of the unit or terminating the lease.
- The family must give DHC a copy of any owner eviction notices promptly. DHC defines promptly as 10 business days of receipt of the eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The family must notify DHC, in writing, within 60 days of the birth, adoption, or court-awarded custody of a child the family must request DHC approval to add any other family member as an occupant of the unit. No other persons may reside in the unit other than those approved by DHC. The request to add a family member must be submitted in writing and approved before the person moves into the unit.
- A family may not allow a foster child, foster adult, or live-in aide to live in the unit without DHC's prior approval.
- The family must notify DHC within 10 business days, in writing, if any member no longer resides in the unit.
- The family may engage in legal profit-making activities in the unit, that such activities are approved by the property owner and are incidental to the primary use of the unit by the family.
- The family must not sublease the unit, assign the lease, or transfer the unit.
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space, or HCV Homeownership Program).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the federal programs.
- Family members must 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.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in near the premises. VAWA related activities will not be considered as serious lease violations by the victim or threatened victim.
- An assisted family or member of the family must not receive HCV assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.
- DHC may terminate assistance if the family was previously terminated due to fraud or program violation by another PHA within five years from the date DHC discovered the termination.

10. Death of the Sole Family Member

DHC must immediately terminate program assistance for deceased single member households. Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12.2.A. OVERVIEW

DHC is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give DHC the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions DHC may choose to take when it has discretion and outlines the criteria DHC will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

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

- Terminating housing assistance payments under a current HAP contract, refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12.2.B. ALTERNATIVES TO TERMINATION OF ASSISTANCE

1. Change in Household Composition

As a condition of continued assistance, DHC 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 new address upon DHC's request.

2. Repayment of Family Debts

If a family owes amounts to DHC or another PHA, as a condition of continued assistance, the family must repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from DHC of the amount owed.

Additionally, payments must remain current for any repayment agreement entered into with a previous landlord for unpaid rent, tenant-caused damages, and utilities.

12.2.C. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

1. Preponderance of Evidence

DHC will use the standard of the preponderance of the evidence as the standard for making all termination decisions. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing

than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

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

DHC will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case.
- The extent of the participant's or a family member's culpability.
- Mitigating circumstances related to whether the family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking.
- Mitigating circumstances related to whether the family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking.
- The effects of denial or termination of assistance on other family member who were not involved in the action or failure.

In addition, DHC will consider:

- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and likelihood of favorable conduct in the future 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 successfully rehabilitated. DHC 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 successfully rehabilitated.
- In the case of program misuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family includes a person with disabilities, DHC'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 the behavior of a family member with a disability is the reason for a proposed termination of assistance, DHC will determine whether the behavior is related to the disability. If so, upon the family's request, DHC will determine whether alternative measures are appropriate as a reasonable accommodation. DHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

12.2.D. TERMINATION NOTICE

If a family's assistance is to be terminated, whether voluntarily or involuntarily, DHC 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.

When termination is initiated by DHC, the notice to terminate will be sent to the family and the owner at least 30 calendar days before the effective date of the termination. However, if a family vacates the unit without informing DHC, a 30-day notice will not be given. The termination shall be effective the last calendar date that the unit was determined to be abandoned.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that DHC sends to the family must meet the additional HUD and DHC notice requirements discussed in section 16-3C of this plan. VAWA 2013 expands notification requirements to require DHC to provide notice of VAWA rights when DHC terminates a household's housing benefits.

Whenever DHC decides to terminate a family's assistance because of the family's action or failure to act, DHC will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD 50066. DHC will request that a family member wishing to claim protection under VAWA notify DHC within 15 business days.

12.2.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section describes the protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [see 24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking [see 24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, stalking, or human trafficking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

12.2.F. FAMILY REQUEST TO BE TERMINATED FROM THE HCV PROGRAM

The family may request that DHC terminate the family's assistance at any time. The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family's assistance, DHC will follow the notice requirements as stated in this chapter. If DHC receives a verbal request by

the head of household to terminate assistance, DHC shall provide notification to the head of household and the landlord of the contract termination. The head of household shall have 10 business days to confirm program status. If the head of household does not respond, DHC will proceed with program termination as stated.

DHC shall include the required documents with the termination notice in incidents of domestic violence that may be covered by VAWA.

12.2.G. NOTICE OF TERMINATION BASED ON CITIZENSHIP STATUS [24 CFR 5.514 (C) AND (D)]

DHC must terminate assistance if:

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status.
- 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
- DHC determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside in the unit on a permanent basis. 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 pro-ration 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 DHC 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 calendar days before the effective date of the termination.

12.2.H. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP Contract terminate automatically.

PART III: TERMINATION OF TENANCY BY THE OWNER

12.3.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; DHC is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and Michigan law. The owner must provide DHC with a copy of the eviction notice and other court documents within 10 business days of court action.

The owner must provide the participant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notices to the participant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under Michigan law to commence an eviction action.

The owner must specify the section of the lease that has been violated and cite some or all of the ways in which the participant has violated that section as documentation for DHC termination of assistance.

HAP payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, DHC will continue to make HAP payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the participant.

DHC will continue making HAP payments to the owner in accordance with the HAP Contract while in the appeal process as long as the participant continues to occupy the unit. By endorsing the monthly check from DHC, the owner certifies that the participant is still in the unit, and she/he is in compliance with the HAP Contract. If action is finalized in court, the owner must provide DHC with the documentation, including notice of the eviction date, if any.

If the eviction is not due to a serious or repeated violation of the lease, and if DHC has no other grounds for termination of assistance, DHC will issue a new voucher so that the family can move with continued assistance.

24.3.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR982.310]

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.

1. 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, DHC's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner. A participant will be considered in good standing if an agreement for the violation has been entered by the third party the participant must maintain the terms of the agreement to remain in good standing.

Notification of failure to maintain the agreement may results in program termination.

2. 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.

3. 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 participant's control commits any of the following types of criminal activity:

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents, including property management staff residing on the premises.
- Any criminal activity that threatens the health or safety 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 Michigan,
- Violating a condition of probation or parole imposed under federal or state law; or
- 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.

4. Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person 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 participant or an immediate member of the participant's family is the victim or threatened victim of the domestic violence, dating violence, stalking, or sexual assault.

5. 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. Lease violations must be current lease violations. Current is defined as violations that have occurred within the previous 12 months.

24.3.C.EVICTION [24 CFR 982.310(E) AND (F)]

The owner must give the participant a written notice that specifies the section of the lease that has been violated and cite some or all of the ways in which the participant has violated that section. The landlord must

provide a copy of this notice to DHC as documentation for DHC's termination of assistance within 10 business days.

The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action. The notice of grounds may be included in, or may be combined with, any owner eviction notices to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give DHC a copy of any eviction notices at the same time the owner notifies the family. The family is also required to give the DHC a copy of any eviction notice within 10 business days

If the eviction action is finalized in court, the owner must provide DHC with documentation related to the eviction, including the judgment of possession, and evidence of the eviction date if the bailiff removed the participant's property, as soon as possible, but no later than 10 business days following the court-ordered eviction.

24.3.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR982.310(H)]

An owner who has grounds to terminate a tenancy is not required to do so and may consider all 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 participant 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 participant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and

The effect of the owner's action on the integrity of the HCV Program.

No future subsidy payments on behalf of the family will be made by DHC to the owner after the month in which the HAP Contract is terminated. The owner must reimburse DHC for any subsidies paid by DHC for any period after the HAP Contract termination date. If the family continues to occupy the unit after the HAP Contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a HAP Contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

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 successfully rehabilitated. For this purpose, the owner may 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 successfully rehabilitated.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105. The owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence Against Women Act of 2013 (VAWA) and conforming regulations in 24 CFR Part 5, Subpart L.

24.3.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if DHC has no other grounds for termination of assistance, DHC may issue a new voucher so that the family can move with continued assistance.

CHAPTER 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV Program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV Program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the HCV Program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV Program.

This chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in DHC's HCV Program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP Contract and the relationship between DHC, and the owner as expressed in the HAP Contract.

For detailed information about HCV Program responsibilities and processes, including DHC policies in key areas, owners will need to refer to several other chapters in this Admin Plan.

PART I. OWNERS IN THE HCV PROGRAM

13.1.A. OWNER RECRUITMENT AND RETENTION

1. Recruitment

DHC is responsible for ensuring that a sufficient number of owners, representing all types and ranges of affordable housing in DHC's jurisdiction, are willing to participate in the HCV Program.

DHC will conduct owner outreach to ensure that owners are familiar with the HCV Program and its advantages. DHC will actively recruit property owners with property located outside areas of poverty and minority concentration. DHC will conduct outreach events, the notification will be done in a manner that is effective for persons with hearing, visual, and other communication-related disabilities. DHC will also

take reasonable steps to ensure meaningful access to the program to persons with limited English proficiency.

These outreach strategies will include, but are not limited to:

- Distributing printed material about the program to property owners and managers.
- Contacting property owners and managers by phone or in-person.
- Holding owner recruitment/information meetings at least once a year.
- Participation in community-based organizations comprised of private property and apartment owners and managers.
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations; and
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

2. Retention

In addition to recruiting owners to participate in the HCV Program, DHC will provide the kind of customer service that encourages participating owners to remain active in the HCV Program.

DHC provides information to owners via the DHC website, electronically or in print.

13.1.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires DHC to aid families in their housing search by providing the family with a list of landlords or other parties known to DHC who may be willing to lease a unit to the family, or to help the family find a unit.

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify DHC. DHC will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. DHC has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the HCV Program's requirements. A copy of the owner's proposed dwelling lease, including the HUD-required Tenancy

Addendum (Form HUD- 52641-A), must be submitted with the RFTA. See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions. The owner must be qualified to participate in the HCV Program [24 CFR 982.306]. Some owners are precluded from participating in the HCV Program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the HCV Program [24 CFR 982.305(a)]. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process. The selected unit must meet HUD's Housing Quality Standards (HQS), NSPIRE and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. DHC will inspect the owner's dwelling unit at various stages of HCV Program participation, to ensure that the unit continues to meet HQS OR NSPIRE requirements. See chapter 8 for a discussion of the HQS OR NSPIRE standards, as well as the process for HQS OR NSPIRE inspections at initial lease-up and throughout the family's tenancy.

DHC will determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness.

At initial lease-up of a unit, DHC must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all HCV Program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV Program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and Tenancy Addendum, including lease terms and provisions.

DHC and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP Contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP Contract execution process. Specific HAP Contract provisions and responsibilities are discussed later in this Chapter 13.

13.1.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV Program are outlined in the regulations as follows:

- Performing all the owner's obligations under the 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 HQS or NSPIRE, including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing to DHC information required under the HAP Contract.
- Collecting from the family any security deposit, the family's contribution to rent, i.e., that part of rent to owner not covered by DHC's HAP payment, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services unless to be paid by the family under the lease (NOTE: DHC requires that the utility bill (when applicable) is in the name of the owner if the owner is the responsible party for paying for the utility service).
- Allowing the making of modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]; and
- Complying with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening and terminating tenants.

13.1.D. OWNER QUALIFICATIONS

DHC does not formally approve an owner to participate in the HCV Program. However, there are a number of criteria where DHC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV Program [24 CFR 982.306(e)].

1. Owners Barred from Participation [24 CFR 982.306(a) and (b)]

DHC will not approve the assisted tenancy if DHC has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

When directed by HUD, DHC will not approve an assisted tenancy if the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

2. Other Reasons to Deny Tenancy Based Upon Owner Actions

DHC will not approve a request for tenancy if DHC becomes aware of the following:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program a conviction is not required before DHC can find that the landlord violated this provision.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity a conviction is not required before DHC can find that the landlord violated this provision.
- The owner has a history or practice of non-compliance with the HQS or NSPIRE for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- No proof of ownership.
- Having a history or practice of renting units that fail to meet local housing codes.
- Failure to complete all required DHC documentation.
- Has a history of illegal utility service?
- Has delinquent taxes and/or utility services at the unit which is being requested that DHC subsidize.
- The owner or owner's staff and contracted management entity has a history or practice of failing to terminate tenancy of tenants of units assisted under the HCV Program or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:
  - Threatens the right to peaceful enjoyment of the premises by other residents.
  - Threatens the health or safety of other residents, of employees of DHC or its agents.
  - 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.
- Is drug-related criminal activity or violent criminal activity; or
- That includes illegal utility service.
- The owner has a history or practice of not paying Michigan State, or local real estate taxes, fines or assessments, water and sewerage bills for properties assisted under Section 8 or any other federally assisted program.
- HUD informs DHC that the owner has been disbarred, suspended or subject to a limited denial of participation under 24 CFR Part 24.

- HUD informs DHC that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD informs DHC that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirement.

In considering whether to disapprove owners for any of the discretionary reasons listed, DHC will consider any mitigating factors. Such factors may include, but are not limited to the seriousness of the violation in relation to program requirements; the impact on the ability of families to lease units under the program; the health and safety of participating families; etc. DHC considerations will be on a case-by-case basis.

This review may occur during the processing of an initial HAP contract approval. For purposes of this section, "owner" includes a principal or other interested party.

If DHC disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP Contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP Contract for those units

3. Leasing to Relatives [24 CFR 982.306(d)]

DHC will not approve a RFTA if the owner is the parent, child, grandparent, grandchild, sister, brother or has a spousal relationship with of any member of the family. DHC may make an exception as a reasonable accommodation for a disabled family member. The owner is required to certify that no such relationship exists. This restriction applies for the entire time the family receives assistance under the HCV Program for occupancy of a particular unit.

4. Conflict of Interest [24 CFR 982.161]

DHC will not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during their tenure or for one year thereafter:

- Any present or former member or officer of DHC, except a participant commissioner.
- Any DHC employee, or any DHC contractor, subcontractor, or agent, who formulates policy or who influences decisions with respect to the HCV Program.
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the HCV Program; or
- 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. DHC must submit a waiver request to the appropriate HUD Field Office for determination.

In considering whether to request a conflict-of-interest waiver from HUD, DHC will consider these factors: consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Where DHC has requested a conflict-of-interest waiver, DHC may not execute the Hap Contract until HUD has decided on the waiver request.

5. Legal Ownership of Unit

DHC will only enter a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership, e.g., recorded deed of trust, or other recorded legal documents.

13.1.E. NON-DISCRIMINATION

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, disability, sexual orientation, marital status, or gender identity in connection with any actions or responsibilities under the HCV Program and the HAP Contract with DHC.

The Owner is subject to HUD's Equal Access Rule once a HAP contract is executed. The owner must cooperate with DHC and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV Program and the HAP Contract with DHC.

PART II: HAP CONTRACTS

13.2.A. OVERVIEW

The HAP Contract represents a written agreement between DHC, and the owner of the dwelling unit occupied by an HCV assisted family. The HAP Contract spells out the owner's responsibilities under the HCV Program, as well as DHC's obligations. Under the HAP Contract, DHC agrees to make HAP payments to the owner on behalf of a specific family occupying a specific unit.

The HAP Contract is used for all HCV Program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in DHC's HCV Program. When DHC has given approval for the family of the assisted tenancy, the owner and DHC will execute the HAP Contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP Contract.

13.2.B. HAP CONTRACT CONTENTS

The HAP Contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. The HAP Contract contains three parts.

Part A of the HAP Contract includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities, and appliances to be supplied by owner and tenant, signatures of DHC and owner.

In general, the HAP Contract cannot be modified. However, DHC has the discretion to add language to Part A of the HAP Contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. DHC policy on the amount of security deposit an owner may collect is found in chapter 9.

Part B is the body of the HAP Contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV Program. Most of the requirements contained in Part B of the HAP Contract are outlined elsewhere in this Admin Plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Owner Certification
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation
- Foreclosure

Part C of the HAP Contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the HCV Program and the composition of the household, as approved by DHC. The owner must sign the HUD Tenancy Addendum with the prospective tenant as it must be included in its entirety within the executed lease, and the tenant has the right to enforce the Tenancy

Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13.2.C. HAP CONTRACT PAYMENTS

1. General

During the term of the HAP Contract, and subject to the provisions of the HAP Contract, DHC will make monthly HAP payments to the owner on behalf of the family. DHC will pay HAP at the beginning of the month taking into consideration when funds are received and office closures for holidays. DHC will not research questioned payments until the 10th business day of the month. If a lease term begins after the first of the month, the HAP payment for the first month is pro-rated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP Contract. DHC will notify the owner and the family in writing of any changes in the HAP payment. HAP payments can be made only during the lease term and only while the family is residing in the unit.

The monthly HAP payment by DHC is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus DHC's HAP payment must be equal to the rent specified in the lease.

The family is not responsible for payment of the HAP payment and DHC is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [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)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from DHC, the excess amount must be returned immediately. If DHC determines that the owner is not entitled to all or a portion of the HAP, DHC may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other HAP Contracts. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

If an owner accepts HAP for three consecutive months, the owner's acceptance of the HAP payment will be deemed to constitute the owner's acceptance of the amount paid as the correct amount of HAP. After this period, the owner can no longer contest the change based upon the failure to receive a change letter,

and DHC will not retroactively revise the HAP. Exceptions to this policy may be granted only upon written approval of the Director of Assisted Housing.

2. Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP Contract, the owner is not entitled to receive housing assistance payments under the HAP Contract. By not returning any direct deposit funds or by endorsing the monthly check from DHC, the owner certifies to compliance with the terms of the HAP Contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS OR NSPIRE; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive, other than rent to owner, any additional payments or other consideration for rent of the contract unit during the HAP Contract term.

3. Late HAP Payments [24 CFR 982.451(a)(5)]

DHC is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP Contract. After the first two (2) calendar months of the HAP Contract term, the HAP Contract provides for penalties if DHC fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if:

- the penalties are in accordance with generally accepted local rental market practices and the law governing penalties for late payment by tenants and the penalties are included within the executed rental agreement.
- it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and
- the owner charges the assisted family for late payment of the family's share of the rent.

DHC is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond DHC's control. In addition, late payment penalties are not required if DHC intentionally delays or denies payment as a remedy to an owner breach of the HAP Contract.

4. Termination of HAP Payments [24 CFR 982.311(b)]

DHC 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.

HAP payments will terminate when the HAP Contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, DHC must continue to make HAP payments to the owner until the owner has obtained a possession judgment or other process allowing the owner to evict the tenant or the tenant voluntarily abandons the unit.

The owner must inform DHC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform DHC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide DHC with a copy of such judgment or order.

After the owner has obtained a possession judgment or other process allowing the owner to evict the tenant, DHC will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform DHC of the date when the family

actually, moves from the unit or the family is physically evicted from the unit and the owner must provide documentation to DHC of such eviction.

13.2.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

DHC's rights and remedies against the owner under the HAP Contract for owner breach include recovery of any HAP overpayment, suspension of HAP payments, abatement or reduction of the HAP payment, termination of the HAP payment or termination of the HAP Contract. DHC may also obtain additional relief by judicial order or action.

DHC must notify the owner of its determination and provide, in writing, the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. DHC must provide the owner with written notice of any reduction in HAP payments or the termination of the HAP Contract.

Before DHC invokes a remedy against an owner, DHC will evaluate all information and documents available to determine if the HAP Contract has been breached. If relevant, DHC will conduct an audit of the owner's records pertaining to the tenancy or unit. If it is determined that the owner has breached the HAP Contract, DHC will consider all the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP Contract violations.

13.2.E. HAP CONTRACT TERM AND TERMINATIONS

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:

- The owner or the family terminates the lease.
- The lease expires.
- DHC terminates the HAP Contract.
- DHC terminates assistance for the family.
- The family moves from the assisted unit
- 180 calendar days have elapsed since DHC made the last HAP payment to the owner.
- The family is absent from the unit for longer than the maximum period permitted by DHC.
- The Annual Contributions Contract (ACC) between DHC and HUD expires; or
- DHC elects to terminate the HAP Contract.

DHC may elect to terminate the HAP Contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program - [24 CFR 982.454].
- The unit does not meet HQS or NSPIRE size requirements due to change in family composition [24 CFR 982.403] – see chapter 8.
- The unit does not meet HQS or NSPIRE [24 CFR 982.404] – see chapter 8.
- The family breaks up [HUD Form 52641] – see chapter 3.
- The owner breaches the HAP Contract [24 CFR 982.453(b)]

1. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program (a conviction is not required before DHC can find that the landlord violated this provision).
2. The owner has engaged in any drug-related criminal activity or any violent criminal activity (a conviction is not required before DHC can find that the landlord violated this provision)
3. The owner has engaged in actual physical abuse or has threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents. “Threatening” refers to verbal or written threats, or physical gestures, that communicate intent to abuse or commit violence. Abusive or violent behavior” includes verbal behavior, including use of expletives that are generally considered insulting, racial epithets, or other language, written or verbal, that is customarily used to insult or intimidate, as well as physical abuse or violence.

If DHC terminates the HAP Contract, DHC will give the owner and the family written notice. The notice will 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 HAP Contract except in situations where DHC reverses or extends the contract termination date.

In all cases, the HAP Contract terminates at the end of the calendar month that follows the calendar month in which DHC gives written notice to the owner. The owner is not entitled to any HAP payment after this period and must return to DHC any HAP payment received after this period. However, DHC as normal practice only begins a HAP Contract after the termination date of the previous 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 is required.

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.

13.2.F. DEBARRING AND SUSPENDING OWNERS FROM PARTICIPATION IN THE HCV PROGRAM; BANNING OWNERS FROM DHC PREMISES

1. Debarring and Suspending Owners

DHC may debar or suspend an owner from future participation in the program for a period of time commensurate with the seriousness of the offence if:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity (a conviction is not required before DHC can find that the landlord engaged in drug-related criminal activity or violent criminal activity).
- If an owner is guilty of frequent or serious HAP Contract violations, including repeated failure to enforce lease agreements with assisted families.
- The owner has engaged in actual physical abuse or has threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents. “Threatening” refers to verbal or written threats, or physical gestures, that communicate intent to abuse or commit violence. “Abusive or violent behavior” included verbal behavior, including use of expletives that are generally considered insulting, racial epithets, or other language, written or verbal, that is customarily used to insult or intimidate, as well as physical abuse or violence.

2. Banning Owners

DHC may also ban an owner from its premises for a period of time commensurate with the seriousness of the offense if an owner has, as defined in 13.2 F.1 above, engaged in actual physical abuse or has

threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents.

An owner may be simultaneously debarred or suspended from participation and banned from DHC premises.

DHC will notify owners who are debarred, suspended and/or banned.

13.2.G. CHANGE IN OWNERSHIP/ASSIGNMENT OF THE HAP CONTRACT

The HAP Contract cannot be assigned to a new owner or a new property management company ("PMC") without the prior, written consent of DHC. An owner under a HAP Contract must notify DHC, in writing, before a change in the legal ownership of the unit or a change in the PMC. The owner must supply all information as requested by DHC.

Prior to 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 DHC finds acceptable. The new owner must provide DHC with a copy of the executed agreement. Prior to approval of assignment of a new PMC, the owner and PMC must agree, in writing, to be bound by and comply with the HAP Contract.

Assignment of the HAP Contract will be approved only if the new owner is qualified to become an owner under the HCV Program. Equally, assignment of the HAP Contract will be approved only if the PMC is qualified under the HCV Program.

DHC must receive a signed, 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.

Within 15 business days of receiving the owner's request, DHC will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to DHC that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed.
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, foreign taxpayer number, 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
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP Contract, or fails to provide the necessary documents, DHC will terminate the HAP Contract with the old owner no later than the last day of the month in which the old owner held legal control of the subject property. The participant will be notified and advised of the right to relocate with assistance. If the participant remains in the unit while searching, DHC will hold the Housing Assistance Payment (HAP) in escrow. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, DHC will process the leasing in accordance with the policies in Chapter 9.

3. Property Management Company ("PMC")

The property owner may contract with a PMC. The PMC would act as the agent for the property owner.

DHC will allow property owners to contract with a new PMC twice within a 12-month period.

Within 15 days of the anticipated change in a PMC, DHC must be notified in writing by the property owner of the intent to change PMCs and provided copies of all of the following documents:

- Signed Management Agreement between the property owner and the PMC. DHC will not accept unsigned documents.
- Deed to the property filed with the Register of Deeds. The property owner in the deed must match the owner identified in the Management Agreement.
- Signed assignment of Housing Assistance Payment Contract and Lease.
- Notification of assignment to current Resident/HCV Participant

Once DHC is notified of the intent to change PMCs, DHC will advise the property owner of the current status of the unit regarding HQS OR NSPIRE Inspections, HAP abatements and of the of the current rent distribution between subsidy and tenant rent.

DHC may terminate the HAP Contract if the property owner does not submit the documents required to approve a change in PMCs within 60 days after the property owner submits a notice of intent to change PMCs. The participant will be notified and advised of the right to relocate with assistance.

CHAPTER 14

PROGRAM INTEGRITY

INTRODUCTION

DHC is committed to ensuring that subsidy funds made available to DHC are spent in accordance with HUD requirements.

This chapter covers HUD and DHC policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents DHC policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures DHC must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14.1.A. OVERVIEW

DHC anticipates that the vast majority of families, owners, and DHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure DHC's HCV Program is administered effectively and according to the highest ethical and legal standards, DHC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

DHC will discuss program compliance and integrity issues with participants during the voucher briefing sessions described in Chapter 5.

DHC will provide each applicant and participant with the publication, "*What You Should Know about EIV*," *(HUD-1141-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

DHC will place a warning statement about the penalties for fraud, as described in the False Statement Act, U.S.C. 1001 and 1010, on key DHC forms and form letters that request information from a family or owner.

DHC staff will be required to review and explain the contents of all HUD- and DHC- required forms before requesting family member signatures.

DHC will require first-time owners, or their agents, to participate in a briefing session on HAP Contract requirements.

DHC will provide each DHC employee with the necessary training on program rules and DHC's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

14.1.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, DHC will use a variety of activities to detect errors and program abuse.

1. Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires DHC to review a random sample of participant records annually to determine if the records conform to HCV Program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

In addition to the SEMAP quality control requirements, DHC will employ a variety of methods to detect errors and program abuse.

DHC routinely will use HUD's Enterprise Income Verification (EIV) system to compare with family-provided information.

At each annual re-examination, current information provided by the family will be compared to information provided at the last annual re-examination to identify inconsistencies and incomplete information.

2. Independent Audits and HUD Monitoring

OMB Circular A-133 requires that DHC annually have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of DHC activities and notifies DHC of errors and potential cases of HCV Program abuse.

DHC will use the results reported in any IPA or HUD monitoring reports to identify potential HCV Program abuses as well as to assess the effectiveness of DHC's error detection and abuse prevention efforts.

3. Individual Reporting of Possible Errors and Program Abuse

DHC will encourage staff, HCV Program participants, and the public to report possible HCV Program abuse.

14.1.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

1. When DHC Will Investigate

DHC will review referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DHC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

DHC will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

2. Consent to Release of Information [24 CFR 982.516]

DHC may investigate possible instances of error or abuse using all available DHC and public records. If necessary, DHC will require HCV families to give consent to the release of additional information.

3. Analysis and Findings

DHC will base its evaluation on a preponderance of the evidence collected during its investigation. Preponderance of the evidence is defined as evidence which is greater weight of the evidence; that is, evidence that you believe because it outweighs or overbalances in your mind the evidence opposed to it. A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed. Quality may, or may not, be identical with quantity.

For each investigation DHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed DHC, and (3) what corrective measures or penalties will be assessed.

4. Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether DHC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, DHC will take into consideration (1) the seriousness of the offense, (2) the extent of participation or culpability of individual family members, (3) any special

circumstances surrounding the case, (4) any mitigating circumstances related to the disability of a family member, (5) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, DHC will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

5. Notice and Appeals

DHC will inform the relevant party in writing of its findings and remedies within 20 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which DHC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

PART II: CORRECTIVE MEASURES AND PENALTIES

14.2.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment (HAP) to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

1. Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, DHC will promptly, prospectively correct the HAP payment, family share, and any utility reimbursement.

Increases in the family share will be implemented only after the family has received a 30- day notice unless the error was caused by the family.

Any decreases in family share will become effective the first of the month following the discovery of the error.

2. Reimbursement

Whether the family or owner is required to reimburse DHC or DHC will make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the section that follow.

14.2.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the HCV Program are discussed throughout this Admin Plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DHC to use incorrect information provided by a third-party.

1. Family Reimbursement to DHC

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. DHC may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, DHC will terminate the family's assistance in accordance with the policies in Chapter 12.

2. DHC Reimbursement to Family

DHC will not reimburse the family for any underpayment of assistance when the underpayment is caused by the family.

3. Prohibited Actions

- An applicant or participant in the HCV Program must not knowingly: Make a false statement to DHC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].
- Evidence of family HCV Program abuse include but is not limited to Payment to the owner in excess of amounts authorized by DHC for rent, security deposit, and/or additional services.
- Offering bribes or illegal gratuities to the DHC Board of Commissioners, employees, contractors, or other DHC representatives.
- Offering payments or other incentives to the owner or a third-party as an inducement for the third-party to make false or misleading statements to DHC on the family's behalf.
- Use of a false name or the use of falsified, forged, or altered documents.
- Intentional misreporting of family information or circumstances, e.g., income, family composition.
- Omitted facts that were obviously known by a family member, e.g., not reporting employment income.
- Admission of HCV Program abuse by an adult family member.

DHC may determine other actions to be HCV Program abuse based upon a preponderance of the evidence.

4. Penalties for Program Abuse

In the case of HCV Program abuse caused by a family, DHC may, at its discretion, impose any of the following remedies.

- DHC may require the family to repay excess subsidy amounts paid by DHC.
- DHC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- DHC may deny or terminate the family's assistance.
- DHC may refer the family for state or federal criminal prosecution.

14.2.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit, e.g., the number of bedrooms, which utilities are paid by the family. It also includes accepting duplicate HAP payments for the same unit in the same month, or after a family no longer resides in the unit.

1. Owner Reimbursement to DHC

In all cases of overpayment of subsidy caused by the owner, the owner must repay DHC any excess subsidy received. DHC may recover overpaid amounts by withholding HAP payments due for subsequent months from any HAP contracts the owner has with DHC, or if the debt is large, DHC may allow the owner to pay in installments over a period of time.

2. Prohibited Owner Actions

An owner participating in the HCV Program must not:

- Make any false statement to DHC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:
  Evidence of owner HCV Program abuse includes, but is not limited to:
  - Charging the family rent above or below the amount specified by DHC.
  - Charging a security deposit other than that specified in the family's lease.
  - Charging the family for services that are provided to unassisted tenants at no extra charge.

- Knowingly accepting HAP payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess HAP payments.
- Offering bribes or illegal gratuities to the DHC Board of Commissioners, employees, contractors, or other DHC representatives.
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to DHC.
- Residing in the unit with an assisted family.
- Any violation of the HAP Contract.

DHC may determine other actions to be HCV Program abuse based upon a preponderance of the evidence.

3. Remedies and Penalties

When DHC determines that the owner has committed program abuse, DHC may take any of the following actions:

- Require the owner to repay excess HAP payments.
- Terminate the HAP Contract.
- Bar the owner from future participation in any DHC programs.
- Refer the case to state or federal officials for criminal prosecution.

14.2.D. DHC-CAUSED ERRORS OR PROGRAM ABUSE

Incorrect subsidy determinations by DHC staff include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation. Upon discovery of a DHC-caused error, DHC will reimburse a participant/family for any underpayment of subsidy resulting from the error.

De Minimis Errors [24 CFR 5.609(c)(4)]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA 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.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for

rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

DHC Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

1. Prohibited Activities

Evidence of DHC staff HCV Program abuse include, but is not limited to:

- Failing to comply with any HCV Program requirements for personal gain.

Failing to comply with any HCV Program requirements as a result of a conflict- of-interest relationship with any applicant, participant, or owner.

CHAPTER 15

SPECIAL HOUSING TYPES AND THE HCV HOMEOWNERSHIP PROGRAM

PART I: SPECIAL HOUSING TYPES

INTRODUCTION

With the exception of the HCV Homeownership Program (HOP), DHC will not permit families to use any special housing types, unless use is needed as a reasonable accommodation, so the HCV Program is readily accessible to a disabled person.

If DHC grants a reasonable accommodation for the use of a special housing type other than the HCV Homeownership Program, DHC shall comply with applicable HUD requirements related to the special housing type for which use is granted.

PART II: HCV HOMEOWNERSHIP PROGRAM [24 CFR 982.625 THROUGH 982.643]

15.2.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option must be an existing participant in DHC's HCV Program for one (1) year and must be in good standing before being approved to participate in the DHC Homeownership Program.

There is only one form of homeownership assistance currently available that DHC may offer under this option and that is monthly homeownership assistance payments. DHC offers homeownership assistance to persons with disabilities.

DHC demonstrates capacity to operate an HCV homeownership program by requiring program applicants to meet eligibility criteria defined further in this chapter

15.2.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. DHC has also established additional initial requirements.

- The family must be a current participant in the HCV Program and must have been a participant in good standing for at least one year.
- The family must qualify as a first-time homeowner or can be a cooperative member.

- The minimum wage income limit requirement to qualify for the program will be 200% of the poverty for the household size at the time of homeownership program approval.
- For elderly/disabled families the minimum income limit requirement to qualify for the HOP is no less than 30% of the area median income for the household size.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full- time basis, i.e., not less than an average of 30 hours per week; and has been continuously so employed during the year before commencement of homeownership assistance for the family. Continuously employed is defined as employment in which a break does not exceed two months.
- The employment requirement does not apply to elderly or disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, DHC must grant an exemption from the employment requirement if DHC determines that it is needed as a reasonable accommodation.
- The family has not previously defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares before commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares before commencement of homeownership assistance, the family has entered into a contract of sale in accordance with 24 CFR 982.631(c).
- The family has had no family-caused violations of HUD's Housing Quality Standards within the past year.
- The family does not owe money to DHC or any other PHA. The debt must be paid in full before consideration into the HOP.
- The family has not committed any serious or repeated violations of a DHC- assisted lease within the past year.
- The family must meet pre-selection criteria in order to be considered for the HOP. In addition to the above criteria, a family must:
    - Meet the minimum credit score established by DHC which will be reviewed and set annually.

- Have a 12-month on time bill payment history.

15.2.C. SELECTION OF FAMILIES [24 CFR 982.626]

Applicants for the HOP are not required to participate in DHC's Family Self Sufficiency ("FSS") program to participate in the HOP. DHC limits the HOP size to 5% of its annual voucher allocation. FSS participants with an interim goal of homeownership shall have a preference for participation in the homeownership program. Participants in an Individual Development Account ("IDA") program administered by an agency other than DHC will also receive a preference for homeownership assistance in the event applicants for homeownership assistance exceed the 5% limitation and must meet HOP and HCV program eligibility requirements as defined in this Admin Plan.

Within preference and non-preference categories, families will be selected according to the date and time of their application for participating in the homeownership program.

All families must meet HOP and HCV program eligibility requirements as defined in this Admin Plan.

15.2.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, DHC will determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A current public housing or Indian housing rental unit.
  - A unit receiving Section 8 project-based assistance.
  - A nursing home, board and care home, or facility providing continual psychiatric, medical, or nursing services.
  - A college or other school dormitory; or
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale. Under construction requires that at least the footers are poured and in place. DHC may require a copy of the approved environmental certificate.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by DHC for Housing Quality Standards (HQS) and also by an independent inspector designated by the family for the systems, structure, and other requirements for the independent inspection.
- The unit must meet HQS OR NSPIRE before the time of closing.

- For a unit where the family will not own fee title to the real property such as a manufactured home, the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For DHC-owned units all of the following conditions must be satisfied:
  - DHC informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a DHC-owned unit is freely selected by the family without DHC pressure or steering.
  - The unit is not an ineligible housing unit.
  - DHC obtains the services of an independent agency to (1) inspect the unit for compliance with HQS, (2) review the independent inspection report, (3) review the contract of sale, (4) determine the reasonableness of the sales price and any DHC-provided financing. All of these actions must be completed in accordance with program requirements. DHC will obtain the services of a neighboring PHA to perform this service so long as the independent agency is operating an HCV Homeownership Program.

DHC will not approve the unit if DHC has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15.2.E. ADDITIONAL DHC REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for HCV homeownership assistance. DHC will issue a HOP voucher once approved for the HOP.

The family will be allowed 90 days to identify a unit and submit a sales contract to DHC for review. The family will be allowed an additional 90 days to close on the home. DHC may grant extensions a 30-day extension.to either of the 90-day periods for good cause. The length of the extension(s) will be determined on a case-by-case basis, but in no case will an extension exceed either 90-day period beyond a total of 120 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 240 days.

All requests for extensions must be submitted in writing to DHC before the expiration of the period for which the extension is being requested. DHC will approve or disapprove the extension request within 10 business days. The family will be notified of DHC 's decision in writing.

The family will be required to report their progress on locating and purchasing a home to the DHC every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame and is not receiving rental assistance under a HAP Contract at the time the search and purchase time period expires,

the family will be allowed to lease a unit and remain in the rental program, so long as they are still in good standing with the HCV Program.

During the homeownership process, the family will continue to receive HCV rental assistance in accordance with any applicable lease and HAP Contract until the family vacates the rental unit for its purchased home.

15.2.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete a minimum of the regular eight hours of pre-purchase homeownership counseling and any individually required counseling sessions.

DHC or its counseling partner will require, at a minimum, the following pre-assistance counseling program:

- Home maintenance (including care of the grounds).
- Budgeting and money management.
- Credit counseling.
- How to negotiate the purchase price of a home.
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing.
- How to find a home, including information about homeownership opportunities, schools, and transportation in DHC's jurisdiction.
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

DHC will adapt the subjects covered in pre-assistance counseling to local circumstances and the needs of individual families. DHC will further require families to attend one-on-one counseling to make sure they understand the obligations and are fully prepared to become homeowners.

DHC or its counseling partner will offer additional counseling after commencement of homeownership assistance (ongoing counseling) for as long as DHC provides subsidy assistance. This is part of the homeownership program and attendance remains a participant's obligation in order to continue to be assisted by DHC.

DHC will ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15.2.G. HOME INSPECTIONS, CONTRACT OF SALE, AND DHC DISAPPROVAL OF SELLER [24 CFR 982.631]

1. Home Inspections

DHC may not commence monthly homeownership assistance payments for a family until DHC has inspected the unit and has determined that the unit passes HQS OR NSPIRE

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector's report must be submitted to DHC for review. The inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer, or another professional who is readily accepted by the local lending community that is participating in the HCV Homeownership Program. DHC may not require the family to use an independent inspector selected by DHC. The independent inspector may not be a DHC employee or contractor, or other person under control of DHC.

DHC will review the independent inspection report in 10 business days and based on the presence of major physical problems, DHC may disapprove the purchase of the home. If DHC disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval. DHC may disapprove a unit for assistance based on information in the independent inspection report even if the unit was found to comply with HQS.

When a family locates a home, they wish to purchase and submits a copy of their purchase offer/contract, DHC will conduct a HQS OR NSPIRE inspection within 10 business days. Any items found not to meet HQS OR NSPIRE must be repaired before the unit can be determined eligible for the homeownership program and before the closing date.

2. Contract of Sale

Before commencement of monthly HAP payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give DHC a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser.
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.

- Provide for an HQS OR NSPIRE inspection.
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.
- Provide the purchaser is not obligated unless the necessary financial mortgage can be obtained.
- Provide that the purchaser is not obligated to pay for any necessary repairs.
- Provide that if the purchase is not approved by DHC, any deposit the purchaser made will be returned by the seller; and
- Provide that the purchaser is not obligated unless conditions are acceptable to DHC.

3. Disapproval of a Seller

In its administrative discretion, DHC may deny approval of a seller for the same reasons DHC may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15.2.H. FINANCING [24 CFR 982.632]

DHC will not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

As a check against predatory lending, DHC will review the financing and refinancing of each purchase transaction, including estimated closing costs. DHC will not approve loans with features such as balloon payments, adjustable-rate mortgages, and unusually high interest rates, which DHC considers to be 5 points above prime. DHC will not approve any loans that contain predatory practices. DHC also will not approve "seller financing" or "owner held" mortgages. Beyond these basic criteria, DHC will rely on the lenders or the secondary market to determine the loan that will be affordable to program participants. Lenders must comply with mortgage standards consistent with HUD/FHA/Fannie Mae/Freddie Mac requirements. Financing must be submitted and approved by DHC within 90 days but at least 30 days before close of escrow.

The mortgage the family applies for may require a minimum down of at least 3% of the sales price with 2% of the down payment coming from the purchaser's personal funds. DHC will not require the family to have more than the minimum of 2% of their money in the transaction. However, in cases where a lender is requiring a larger amount, the family must be held to the underwriting guidelines set by their lending institution. DHC will consider waiving or reducing the minimum down payment requirement in cases where the family is using down payment assistance grants in excess of $3,500 to purchase the unit. Waivers will be granted on a case-by-case basis at the discretion of the Director of Assisted Housing Department or his/her designee. Such waivers shall be in writing.

DHC may approve a family's request to utilize up to 50% of its FSS escrow account for down payment and/or closing costs when purchasing a unit under the HOP provided that homeownership was identified as an interim goal.

15.2.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, DHC will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to DHC the HCV homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership program.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to DHC, or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by DHC or HUD concerning mortgage financing or refinancing, sale, or transfer of any interest in the home, or homeownership expenses.
- The family must notify the DHC before moving out of the home.
- The family must notify DHC if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership program: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).
- The family will comply with all post assistance counseling requirements.
- The family will obtain DHC approval on all financing and refinancing and provide DHC with documentation of the use of the equity funds, so long as they are being assisted under the homeownership program.
- For non-elderly/non-disabled families; the family shall maintain at least one adult in the household that maintains full-time employment, which is considered at least 30 hours per week. DHC will provide for temporary hardship in case of lay-offs or other unusual circumstances in the local economy.

- The family must, at annual re-examination, document that the family is current on mortgage, insurance, taxes, and utility payments.
- If a family with employment income experiences a decrease to less than 30 hours per week of employment for at least one adult family member, the family must report such a decrease within 10 days and the family must report, at least quarterly, actions that demonstrate employment and or training toward employment. If a family has not experienced an increase in wage income within 180 days, the family may be required to participate in FSS (if not previously enrolled) or participate in and complete job skill and training in order to garner new employment unless the family provides documentation that disability has been applied for and is pending. If the head of household is the only employed family member, s/he may not be eligible for full-reporting and training will continue until employment income has been re-established.

Following the home purchase, DHC will conduct HQS OR NSPIRE inspections, for the next three (3) years. After three (3) years, no other annual inspections shall be performed on HOP participants. However, DHC may elect to conduct HQS OR NSPIRE inspections at any time provided notice is given in accordance with HQS OR NSPIRE notice requirements in this Admin Plan. If at any time DHC determines there exists failed health and safety items, the family must correct those items within 24-hours and be re-inspected. Additionally, if DHC observes more than ten (10) non-health and safety failed items, those items must be corrected within 30-days unless DHC grants an extension. The family should use their maintenance escrow, which is included in their monthly calculation of assistance, for these repairs. If repairs are not made, the family will be sent a program and contract termination notice in accordance with DHC policy for non-compliance of HQS.

At annual re-examination the family must bring in proof that the mortgage, taxes, and utilities are current or that the family has a repayment agreement, in good standing, with the creditor.

15.2.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members, as described below, shall not receive homeownership assistance for more than 10 years.

The 10-year maximum term applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable provided the family is otherwise eligible to receive homeownership assistance.

If the family has received such assistance for different homes, or from a different PHA, the total of such assistance terms is subject to the maximum term described in this part.

15.2.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of the payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, DHC will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this Admin Plan for the HCV Program.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family.

DHC's housing assistance payment will be paid directly to the lender. DHC may make an exception if the family requests the payment to be made directly to them and this arrangement is acceptable to the mortgage company. If DHC makes the payment to the family, the family will be responsible for making the payment to the lender. The family, at its option, can also place any excess funds in an escrow account that can be used for repairs or other homeownership expenses.

DHC will allow the following homeownership expenses:

- **Monthly homeownership payment**: This includes principal and interest on initial mortgage debt, taxes, and insurance, and any mortgage insurance premium, if applicable.
- **Utility Allowance**: DHC's utility allowance for the unit, based on the current HCV utility allowance schedule.
- **Monthly maintenance allowance**: The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The annual major repair/replacement allowance will be .1.5% of the purchase price of the home.

Homeownership expenses for a cooperative member may only include amounts allowed by DHC to cover:

- The cooperative charge under the cooperative occupancy agreement, including payment for real estate taxes and public assessments on the home.
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt.
- Homeowner's insurance must include replacement value of the home.
- DHC allowance for maintenance expenses; and
- DHC utility allowance for the home.

15.2.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(B) AND (C), 982.552,982.553]

Subject to the restrictions on portability included in HUD regulations and DHC policies, a family may exercise portability if the receiving PHA is administering an HCV homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its HCV Program, or bill DHC.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify DHC if the family has purchased an eligible unit under the homeownership program or if the family is unable to purchase a home within the maximum time established by the receiving PHA.

15.2.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with HCV rental assistance or with HCV homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

DHC will deny permission to move to a new unit with continued HCV assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, DHC may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with DHC policy regarding number of moves within a 12-month period.

DHC will deny the family permission to move to a new unit with continued HCV rental assistance if:

- The family defaulted on their mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

For families participating in the homeownership program, requests to move will be approved and/or denied in accordance with the policies stated in Chapter 10.

DHC may require additional counseling of any families that moves with continued assistance.

Families may participant, only once with continued assistance, on the HOP. Moves with continued assistance do not extend the overall term of the HOP voucher nor does refinancing.

15.2.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, DHC may deny or terminate homeownership assistance in accordance with HCV Program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

DHC may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633.

DHC must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage, whether FHA insured or non-FHA, securing debt incurred to purchase the home, or any refinancing of such debt or if the home is sold under tax foreclosure.

DHC will terminate a family's homeownership assistance if the family violates any of the homeowner obligations, as well as for any of the reasons listed in the Statement of Homeownership Obligation Housing Choice Voucher Homeownership Program.

In making its decision to terminate homeownership assistance, DHC will consider alternatives as described in Chapter 12 and other factors described in Chapter 12. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Chapter 12.

15.2.O. DEFAULT

If the family defaults on the home mortgage loan, the participant will not be able to use the HOP voucher for rental housing but may reapply for the HCV waiting list if the waiting list is open.

15.2.P. RECAPTURE

DHC shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option unless there is an act of fraud.

CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this Admin Plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes DHC's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to DHC. This part describes policies for recovery of monies that DHC has overpaid on behalf of families, or to owners, and describes the circumstances under which DHC will offer repayment agreements to owners and families. Also, discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: DHC Options When There is Insufficient HAP Funding. This part describes DHC's policy for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families and DHC's policy on the options available to it in the event there is insufficient funding.

Part VI: Record-Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and participants and record retention policies DHC will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes DHC's responsibilities for reporting, data collection and record keeping relative to children with environmental intervention blood lead levels that are less than six (6) years of age and are receiving HCV assistance.

Part VIII: Protecting Tenants at Foreclosure Act (PTFA). This part describes DHC's responsibilities relative to notifying participants and owners of their rights and obligations under the PTFA.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic

violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

Part X: Family Self-Sufficiency (FSS). This part information about the FSS program and its administration

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

16.1.A. OVERVIEW

DHC must maintain an administrative fee reserve for the HCV Program to pay HCV Program administrative expenses in excess of administrative fees paid by HUD for DHC's fiscal year. If funds in the administrative fee reserve are not needed to cover DHC's administrative expenses, DHC may use these funds for other housing purposes permitted by federal, state, and local law.

If DHC has not adequately administered an HCV Program, HUD may prohibit use of funds in the administrative fee reserve and may direct DHC to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes. HUD requires DHC's Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval. DHC has established $100,000 as the maximum amount that can be charged against the administrative fee reserve before Board approval is required.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16.2.A. OVERVIEW

Although many of the HCV Program's requirements are established centrally by HUD, the HCV Program's regulations recognize that some flexibility is required to allow DHC to adapt the program to local conditions. This part discusses how DHC establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- Payment Standards, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- Utility Allowances, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in DHC's offices during normal business hours and on the DHC website. Families, owners, and members of the public may

submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

DHC will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16.2.B. PAYMENT STANDARDS [24 CFR 982.503]

The payment standard sets the maximum subsidy payment a family can receive from DHC each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

DHC must establish a payment standard schedule that establishes payment standard amounts for each FMR area within DHC's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, DHC may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, DHC is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

1. Updating Payment Standards

When HUD updates its FMRs, DHC must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require DHC to make further adjustments if it determines that rent burdens for assisted families in DHC's jurisdiction are unacceptably high [24 CFR 982.503(g)].

DHC will review the appropriateness of the payment standards on an annual basis when the new FMRs are published. In addition to ensuring the payment standards are always within the "basic range", DHC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule.

DHC may elect to adopt the use of Small Area Fair Market Rents (SAFMRs) in an entire metropolitan area or specified zip codes. In doing so, DHC will consider whether to apply the SAFMRs to the PBV program within a designated metropolitan area or specified zip code. DHC will also consider the adoption of neighboring PHAs and MSHDA as it relates to SAFMRs.

a. Funding Availability

DHC will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. DHC will compare the number of families

who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

b. Rent Burden of Participating Families

Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, DHC will consider increasing the payment standard. In evaluating rent burdens, DHC will not include families renting a larger unit than their family unit size.

c. Quality of Units Selected

DHC will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

d. Changes in Rent to Owner

DHC may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

During budget shortfalls DHC reserves the right to freeze any rental increases to owners.

e. Unit Availability

DHC will review the availability of units for each unit size particularly in areas with low concentrations of poor and minority families.

f. Lease-up Time and Success Rate

DHC will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing. Changes to payment standard amounts will be effective within 60 days of the proposed change, based on the proposed FMRs, it appears that one or more of DHC's current payment standard amounts will be outside the basic range when the final FMRs are published, and that the FMRs have not increased and/or decreased in excess of 5%. If DHC has already processed re-examinations that will be effective on or after the proposed effective date of the payment standard changes DHC may make adjustments to those payment standards at the next annual re-examination.

2. Exception Payment Standards [982.503(c)]

DHC must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount, in

accordance with HCV Program requirements, for all units, or for all units of a given size, leased by program families in the exception area. If DHC has any units within its jurisdiction in the exception area, DHC may use the HUD-approved exception payment standard amount. However, the total population of all HUD-approved exception areas in an FMR area may not include more than 50% of the population of the FMR area.

3. Unit-by-Unit Exceptions [24 CFR 982.503(c) (2) (ii)]

Unit-by-unit exceptions to DHC's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a disabled person. This type of exception does not affect DHC's payment standard schedule.

DHC may approve a Voucher Payment Standard of not more than 120% of the FMR if requested as a reasonable accommodation by a family that includes a person with a disability.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, DHC must determine that:

- There is a shortage of affordable units that would be appropriate for the family.
- The unit has features which meet the needs of the family or family member with disabilities
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable as required by 24 CFR 982.597.

4. "Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, DHC may request a "success rate payment standard" that applies to its entire jurisdiction. If approved by HUD, a success rate payment standard allows DHC to set its payment standards at 90-110% of a higher FMR, the 50th, rather than the 40th percentile FMR. To support the request, DHC will demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants.
- DHC had established payment standards for all unit sizes, and for the entire jurisdiction, at 110% of the published FMR; and
- DHC had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, DHC may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of DHC's jurisdiction within the FMR area.

5. Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

DHC must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40% of HCV Program participants exceeds 30% of adjusted monthly income.

16.2.C. UTILITY ALLOWANCES [24 CFR 982.517]

DHC's-established utility allowance schedule is used in determining family share and DHC subsidy. DHC must maintain a utility allowance schedule for:

- all tenant-paid utilities,
- the cost of tenant-supplied refrigerators and ranges, and
- other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, DHC must use normal patterns of consumption for the community as a whole, and current utility rate. The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, DHC must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

1. Reasonable Accommodation

HCV Program regulations require DHC to approve a utility allowance amount higher than shown on DHC's schedule if a higher allowance is needed as a reasonable accommodation for a disabled family member.

2. Utility Allowance Revisions

DHC will review its schedule of utility allowances each year and update these schedules on an annual basis and must revise the schedule if there has been a change of 10% or more in any utility rate since the

last time the allowance for that utility was revised. DHC must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16.3.A. OVERVIEW

When DHC makes a decision that has a 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 citizenship issues, the appeal takes the form of an informal hearing. DHC is required to include in its Admin Plan, informal review procedures for applicants and informal hearing procedures for participants [24 CFR 982.54(d) (12) and (13)].

16.3.B. INFORMAL REVIEWS

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.

1. Decisions Subject to Informal Review

DHC will 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 [24CFR 982.552(a) (2)]:

- Denying listing on DHC's waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence, stalking or sexual assault.

Informal reviews are not required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by DHC.
- General policy issues or class grievances.
- A determination of the family unit size under DHC's subsidy standards.
- DHC's determination not to approve an extension of a voucher term.
- DHC's determination not to grant approval of the tenancy.
- DHC's determination that the unit is not in compliance with the HQS; and

- DHC's determination that the unit is not in accordance with the HQS due to family size or composition.

2. Notice to the Applicant [24 CFR 982.554(a)]

DHC will give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for DHC's decision and will also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review and that this request must be received within ten (10) business days from the date that the document was sent regarding the request for an informal review.

3. Requesting an Informal Review

A request for an informal review must be made in writing and delivered to DHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of DHC's denial of assistance.

When an informal review is required, DHC will schedule the hearing in a reasonably expeditious manner.

4. 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 will be provided an opportunity to present written or oral objections to the decision of DHC.

The person conducting the review will make a recommendation to DHC, however, DHC is responsible for making the final decision as to whether assistance should be granted or denied.

Remote Informal Reviews

All policies and processes for remote informal reviews will be conducted in accordance with due process requirements and in compliance with HUD regulations.

DHC has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, DHC will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

Conducting Remote Informal Reviews

DHC will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, DHC will ensure that all applicants, applicant representatives, DHC representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, DHC representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

Whether the informal review is to be conducted via videoconferencing or telephone call-in, DHC will provide all parties login information and/or conferencing call-in information before the review.

5. Informal Review Decision [24 CFR 982.554(b)]

DHC must notify the applicant of DHC's final decision including a brief statement of the reasons for the final decision.

In rendering a decision, DHC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice.
- The validity of grounds for denial of assistance.
- The validity of the evidence.
- If the, based upon a preponderance of the evidence supports the grounds for denial, and the denial is discretionary, DHC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.
- DHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 30 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.
- If the decision to deny is overturned as a result of the informal review, processing for admission will resume.
- If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

16.3.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

DHC will offer an informal hearing for certain DHC determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted and is currently assisted under a DHC Section 8 assistance program. The purpose of the informal hearing is to consider whether DHC decisions related to the family's circumstances are in accordance with the law, HUD regulations and

DHC's policies. DHC is not permitted 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.

At the discretion of DHC, an outstanding HAP contract may be terminated, and the family granted the ability to move during the informal hearing process if DHC deems the move to be involuntary.

DHC will not allow family initiated moves during the informal hearing process. At the discretion of DHC, a family may be granted the ability to move during the informal hearing process if DHC deems the move to be involuntary. An involuntary move includes, but is not limited to, the following circumstances:

1. Landlord caused abatements where the move process is triggered under Chapter 8.
2. VAWA is triggered under Chapter 16.
3. The landlord opts out of the HAP Contract at the Annual Re-Examination.
4. The unit is in foreclosure or foreclosure proceedings.
5. The landlord has breached the HAP contract and has been removed from the program by DHC.

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

- Refusing to enter into a HAP Contract or approve a lease
- Terminating HAP payments under an outstanding HAP Contract
- Refusing to process or provide assistance under portability procedures

1. <u>Decisions Subject to Informal Hearing</u>

Circumstances for which DHC 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 DHC's utility allowance schedule.
- A determination of the family unit size under the PHA's 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 DHC's subsidy standards, or DHC's determination to deny the family's request for exception from the standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR984.303(i)]; and

- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by DHC.
- General policy issues or class grievances.
- Establishment of DHC's schedule of utility allowances for families in the program.
- DHC's determination not to approve an extension or suspension of a voucher term.
- DHC's determination not to approve a unit or tenancy.
- DHC's determination that a unit selected by the applicants is not in compliance with HQS
- DHC's determination that the unit is not in accordance with HQS because of family size.
- DHC's determination by DHC to exercise or not to exercise any rights or remedy against an owner under a HAP contract

DHC will only offer participants the opportunity for an informal hearing when it is required by regulations.

Remote Informal Hearings

DHC's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, DHC's policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

DHC has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, DHC will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. DHC will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Conducting Informal Hearings Remotely

In conducting any informal hearing remotely, DHC shall ensure due process and that all parties are able to have full access to the hearing.

DHC will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, DHC will ensure that all participants, participant representatives, advocates, witnesses, DHC representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).

If any participant, representative, advocate, witness, DHC representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, DHC will provide all parties login information and/or telephone call-in information before the hearing.

2. Informal Hearing Procedures

a. Notice to the Family [24 CFR 982.555(c)]

When DHC makes a decision that is subject to informal hearing procedures, DHC will 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, DHC will notify the family that they may ask for an explanation of the basis of the determination, and that 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 DHC's subsidy standards, the notice will 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.

In cases where DHC makes a decision for which an informal hearing must be offered, the notice to the family will include all the following:

- The proposed action or decision of DHC.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for DHC's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- Family's ability to request a reasonable accommodation.
- To whom the hearing request should be addressed.
- A copy of DHC's hearing procedures; and
- That the family may request a remote informal hearing

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the family informing them of the right to request an informal hearing, the family will be notified that the informal

hearing will be conducted remotely. The family will be informed of the processes involved in a remote informal hearing and that the PHA will provide technical assistance, if needed, before the informal hearing.

b. Scheduling an Informal Hearing [24 CFR 982.555(d)]

When request for an informal hearing is requested and an informal hearing is required, DHC will proceed with the hearing in a reasonably expeditious manner.

A request for an informal hearing must be made in writing and delivered to DHC

either in person or by first class mail, by the close of the business day, no later than 10 business days from the postmark date of DHC's decision or notice to terminate assistance. DHC will schedule and send written notice of the informal hearing to the family. The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a disabled person. 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 24 hours before the hearing date. At its discretion, DHC may request documentation of the "good cause" before rescheduling the hearing. If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact DHC within 48 hours of the scheduled hearing date, excluding weekends and holidays. DHC 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 disabled person.

DHC may request documentation of the "good cause" before rescheduling an informal hearing. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, DHC's decision will stand.

An informal hearing will be rescheduled no more than two times within a 30-day period. If the second appointment is requested by the participant, scheduled and results in a no- show, the action pending will stand, and the client and owner will be notified of the final results.

Informal hearings are to begin at the time scheduled. A grace period of 15 minutes, following the 15-minute grace period and if the participant did not notify DHC in advance of the scheduled appointment, the pending action with stand and the client and owner will be notified of the final results.

DHC will consider all reasonable accommodation requests associated with informal hearings.

3. Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and DHC are permitted pre-hearing discovery rights. The family must be given the opportunity to examine, before the hearing, any DHC documents that are directly relevant to the hearing.

The family must be allowed to copy any such documents at their own expense. The family will be allowed to copy any documents related to the hearing at a cost of $.10 per sheet. The family must request discovery of DHC documents no later than 5 business days before the scheduled hearing date. DHC will make the documents available no later than 12:00 pm on the business day before the scheduled hearing date. If DHC does not make the documents available for examination on request of the family, DHC may not rely on the documents at the hearing.

Whenever a participant requests an informal hearing, DHC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the informal hearing.

For the purpose of informal hearings, documents include records and regulations.

If the hearing will be conducted remotely, DHC will compile a hearing packet, consisting of all documents DHC intends to produce at the informal hearing. DHC will mail, fax or email copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing.

The original hearing packet will be in the possession of a DHC representative and retained by DHC.

Documents will be shared electronically whenever possible.

DHC's hearing procedures may require the opportunity to examine at the DHC offices before the hearing any family documents that are directly relevant to the hearing. DHC must be allowed to copy any such document at DHC's expense. If the family does not make the document available for examination on request, the family may not rely on the document at the hearing.

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, DHC will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing. DHC will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

4. Participant's Right to Representation and Interpretive Services [24 CFR 982.555(e) (3)]

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 DHC, as may be agreed upon by the two parties.

If the family is being represented by a lawyer, DHC shall be advised of the lawyer's name and contact information no later than 5 business days before the hearing. Upon receipt of the contact information all communication related to the informal hearing shall be between DHC and the family's lawyer.

5. Informal Hearing Officer [24 CFR 982.555(e) (4)]

Informal hearings will be conducted by a person or persons approved by DHC, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

DHC may utilize DHC employees who have received grievance hearing training and who do not work in the Assisted Housing Department as hearing officers.

6. Attendance at the Informal Hearing

Informal hearings may be attended by a hearing officer and (1) DHC representative(s), any witnesses for DHC and DHC's attorney; (2) the participant, any witnesses for the participant and the participant's attorney or other representative; and (3) any other person approved by DHC as a reasonable accommodation for a disabled person.

7. Conduct at Informal Hearing

The person who conducts the informal hearing may regulate the conduct of the informal hearing in accordance with DHC'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 informal hearing at the discretion of the hearing officer.

8. Recording of the Hearing

DHC will record the informal hearing but is not required to provide a transcript of the informal hearing. DHC will provide a copy of the recording of the informal hearing to the family at the family's expense.

9. Evidence [24 CFR 982.555(e) (5)]

DHC 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 informal hearing. Evidence Includes:

- **Oral evidence**: the testimony of witnesses.
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to DHC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence**: Evidence created specifically for the informal 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 informal hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone will not be used as the sole basis for the hearing officer's decision.

If either DHC or the family fails 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, the hearing officer has the authority to overrule any objections to evidence.

10. Hearing Officer's Decision [24 CFR 982.555(e) (6)]

The person who conducts the informal hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the informal hearing. A copy of the decision must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

- **DHC's Notice to the Family**: The hearing officer will determine if the reasons for DHC's decision is stated in the notice.
- **Discovery**: The hearing officer will determine if DHC and the family were given the opportunity to examine any relevant documents in accordance with DHC policy.
- **DHC's Evidence to Support DHC Decision**: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the evidence to determine if it supports DHC's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in HUD program materials, such as regulations, guidance, HAP Contract, and the Tenancy Addendum, as well as DHC policies. If the grounds for termination are not in compliance with HUD program materials and DHC policies, then DHC's decision will be overturned.

The hearing officer will issue a written decision to the family and DHC staff as applicable no later than 15 business days after the informal hearing.

11. Hearing Information

The hearing officer's decision will contain the following:

- Name of the participant.
- Date, time, and place of the hearing.
- Name of the hearing officer.
- Name of DHC representative(s).
- Name of family representative (if any).

In addition, the hearing officer's decision will also include the following information as a part of the informal hearing process:

- **Background**: A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact**: The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **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 DHC's decision.
- **Order:** A statement of whether DHC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct DHC to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct DHC to restore the participant's program status. And, if required by the hearing officer, the family must complete any pending outstanding items. If the pending items are not completed within 30 calendar days of the date of the hearing officer's decision, the termination will be considered upheld.

12. Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or may adjourn the informal hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of DHC will take effect and another informal hearing will not be granted.

13. DHC's Notice of Final Decision [24 CFR 982.555(f)]

DHC is not bound by the decision of the hearing officer for matters in which DHC is not required to provide an opportunity for an informal 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 DHC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, DHC will promptly notify the family of the determination and the reason for the determination.

DHC will send a "Notice of Final Decision" including the hearing officer's decision, to the participant and their representative. This notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the

"Notice of Final Decision" along with the original proof mailing will be maintained by DHC.

A decision against a family member issued in accordance with DHC's informal hearing process, does not preclude the participant from exercising the right, that may otherwise be available, to seek redress through the judicial process.

16.3.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR5.514]

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 status 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 before a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while a DHC informal 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 DHC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through the judicial process.

1. Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens 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 pro-ration 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 a right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal; and
- 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.

2. USCIS Appeal Process [24 CFR 5.514(e)]

When DHC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, DHC 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 DHC with a copy of the written request for appeal and the proof of mailing.

DHC will notify the family in writing of the results of the USCIS secondary verification within 15 business days of receiving the results. The family must provide DHC 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 DHC, of its decision. DHC will send written notice to the family of its right to request an informal hearing within 15 business days of receiving notice of the USCIS decision regarding the family's immigration status.

16.3.E. INFORMAL HEARING PROCEDURES FOR RESIDENTS [24 CFR5.514(F)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that DHC provide an informal hearing. The request for an informal hearing must be made either within 10 business days of receipt of DHC's notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

1. Retention of Documents [24 CFR 5.514(h)]

DHC shall retain, for a minimum of 5 years, the following documents that may have been submitted to DHC by the family, or provided to DHC as part of the USCIS appeal or the informal hearing process:

- The application for financial assistance.
- The form completed by the family for income re-examination.
- Photocopies of any original documents (front and back), including original USCIS documents.
- The signed verification consent form.
- The INS verification results.
- The request for an USCIS appeal.
- The final INS determination.
- The request for an informal hearing; and
- The final informal hearing decision.

2. Informal Hearing Officer

DHC will 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.

DHC may utilize DHC employees who have received grievance hearing training and who do not work in the Assisted Housing Department as hearing officers.

3. Evidence

Families and DHC are permitted pre-hearing discovery rights. The family will be given the opportunity to examine, before the hearing, any DHC documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of DHC documents no later than 5 business days before the scheduled hearing date. DHC must make the documents available no later than 12:00 pm on the business day before the scheduled hearing date. If

DHC does not make the documents available for examination on request of the family, DHC may not rely on the documents at the hearing.

DHC must be given the opportunity to examine, at DHC offices before the hearing, any family documents that are directly relevant to the hearing. DHC must be allowed to copy any such documents at DHC's expense. DHC must request discovery of family documents no later than 5 business days before the scheduled hearing date. The family must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date. If the family does not make the documents available for examination on request of the DHC, the family may not rely on the document at the hearing.

Whenever a participant requests an informal hearing, DHC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the informal hearing.

For the purpose of informal hearings, documents include records and regulations.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. The family will also be provided the opportunity to refute evidence relied upon by DHC, and to confront and cross-examine all witnesses on whose testimony or information DHC relies.

4. 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 DHC, as may be agreed upon by the two parties.

If the family is being represented by a lawyer, DHC shall be advised of the lawyer's name and contact information no later than 5 business days before the hearing. Upon receipt of the contact information all communication related to the informal hearing shall be between DHC and the family's lawyer.

5. Recording of the Hearing

DHC will record the informal hearing but is not required to provide a transcript of the informal hearing. DHC will provide a copy of the recording of the informal hearing to the family at the family's expense.

6. Hearing Decision

DHC must provide the family with a written, final decision, based solely on the facts presented at the informal hearing, within 30 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

PART IV: OWNER OR FAMILY DEBTS TO DHC

16.4.A. OVERVIEW

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the owner or participant is responsible to return any overpayments to DHC.

This part describes DHC's policies for recovery of monies that have been overpaid on behalf of families or to owners. [24 CFR 982.54]

When an owner or participant refuses to repay monies owed to DHC, DHC will

utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

16.4.B. REPAYMENT POLICY

1. Owner Debts to DHC

If the owner is entitled to any other payments under HAP contracts with DHC, DHC will reduce the future HAP payments by the amount owed until the debt is paid in full in accordance with federal rules and regulations. Any amount due to DHC by an owner may be repaid in full upon receipt of notice of debt by DHC.

It is anticipated that debts be made current with DHC within 30 calendar days of notice of debt by DHC. However, if the owner is not entitled to future HAP payments, DHC may offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, DHC will ban the owner from future participation in the HCV Program and pursue other methods of collection.

2. Family Debts to DHC

Any amount due to DHC by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days of DHC's notice of the amount owed, DHC may offer to enter into a repayment agreement in accordance with the policies below. If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, DHC will terminate the assistance upon notification to the family and pursue other modes of collection.

3. Repayment Agreement [24 CFR 792.103]

The term repayment agreement refers to a document entered into by an HCV participant or owner and DHC in which an HCV participant or owner acknowledges a debt to DHC in a specific amount and agrees to repay the amount due at specific time periods.

If the amount owed is no more than $10,000.00, DHC, in its sole discretion, may enter into a repayment agreement. DHC shall determine the terms and conditions of the repayment agreement.

4. Repayment Agreement Guidelines

a. Payments

The repayment agreement shall be paid in equal monthly installments. One month's installment shall be paid as a down payment before execution of the repayment agreement. The initial down payment shall be 25% of the total debt due DHC. The Assisted Housing Director may approve a decrease in the monthly payment for families who experience a hardship and provides verification of the hardship. The family must make a written request for a hardship decrease. The request shall be made within 10 business days of the event triggering the hardship request. Any change in monthly payment shall be in writing, be signed by the Director of Assisted Housing and the family and made an attachment to the repayment agreement. The term of the repayment agreement shall be lengthened accordingly, up to a maximum of 36 months.

Payments shall be made by cashier's check or money order.

The monthly retroactive rent payment plus the monthly rent payment cannot exceed 40% of a family's monthly adjusted income (MAI). If a family is paying less than 40 percent of its MAI in rent, the minimum monthly payment amount will be the greater of the following amounts:

- The difference between 40 percent of the family's MAI and the total family share at the time the Repayment Agreement is executed.
- If a family can provide evidence satisfactory to DHC that a monthly payment amount of $25 would impose an undue hardship, DHC may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a Repayment Agreement, the monthly payment amount may be adjusted accordingly.

Repayment Agreements that exceed 40% of a family's MAI will be extended in one-month increments until the payment does not exceed 40% of MAI.

b. Term of Repayment Agreement

The repayment agreement term shall generally be for 12 months or less but shall in any event be the minimum time period in which the family can be reasonably expected to repay the debt owed. The Executive Director, Deputy Executive Director, or Director of Assisted Housing may approve longer terms, when necessary. The Director of Assisted Housing shall provide a written justification for the longer term.

c. Execution of a Repayment Agreement

The head of household and spouse or co-head, if applicable, must sign the repayment agreement for a family. An authorized representative of the owner must sign on behalf of the owner. The Director of Assisted Housing must sign on behalf of DHC.

d. Due Dates

All payments under a repayment agreement 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.

e. Non-Payment by Family

If a payment is not received by the end of the business day on the 5th day of the month and prior approval for the missed payment has not been given by DHC, DHC will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the repayment agreement and DHC will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default and DHC will terminate assistance upon written notification to the family.

f. Non-Payment by Owner

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by DHC, DHC will send the

owner a delinquency notice giving the owner 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the repayment agreement and DHC will pursue other collections remedies against the owner.

g. No Offer of Repayment Agreement

DHC will not enter into a repayment agreement if:

1. There is already a repayment agreement in place with the family or owner.

2. DHC determines that the amounts owed by the family is more than the family can repay in a reasonable period; or
3. DHC determines that the family has committed or has attempted to commit program fraud. If a family owes DHC an amount that equals or exceeds $9,999 as a result of program fraud. These matters will where appropriate be referred to the HUD Inspector General and/or referred for criminal prosecution.

h. Requests to Move

No move will be approved until the debt is paid in full, unless the move is for the following reasons:

- Family size exceeds the HQS maximum occupancy standards.
- HAP Contract is terminated due to owner non-compliance or opt-out.
- Man-made or natural disaster.
- The move is as a reasonable accommodation approved by DHC; or
- The move is necessary as a result of domestic violence, dating violence, stalking or sexual assault and VAWA required documentation is provided.

i. Writing Off Debts

Debts will be written-off if:

- the debtor's whereabouts are unknown, and the debt is more than seven (7) years old.
- a determination is made that the debtor is judgment proof.
- the debtor is decreased and has no estate.
- the debtor is confined to an institution indefinitely or for more than five (5) years; or
- the amount is less than $750 and the debtor cannot be located.

5. Repayment Agreements Involving Improper Payments

In accordance with HUD PIH Notice 2010-19 the following provisions will be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the program materials that state the family's obligation to provide true and complete information at every reexamination and the grounds on which DHC 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 DHC the monthly payment amount specified in the repayment 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.

- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

Participants are required to reimburse DHC if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income.

The participant is required to reimburse DHC for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the participant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, DHC must terminate the family's tenancy or assistance, or both. HUD does not authorize any DHC-sponsored amnesty or debt forgiveness programs.

DHC is required to determine retroactive rent amount as far back as DHC has documentation of family reported income.

PART V: DHC OPTIONS WHEN THERE IS INSUFFICIENT HAP FUNDING

The HCV regulations allow DHC to deny families permission to move and to terminate HAP Contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454].

16.5.A. METHODOLOGY TO DETERMINE IF THERE IS INSUFFICIENT HAP FUNDING

DHC will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing DHC's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, DHC will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, and/or if DHC cannot support the cost of the proposed subsidy commitment, i.e., voucher issuance or move, based on the funding analysis when taking into account use of Net Restricted Assets to offset HAP shortfalls only in so far as DHC will maintain in reserve at a minimum an amount equal to an average month of HAP expenditures, DHC will be considered to have insufficient funding.

16.5.B. DHC OPTIONS WHEN THERE IS INSUFFICIENT HAP FUNDING

If there is insufficient HAP funding, DHC may do any of the following:

- **Deny Move** - DHC may deny a move under 24 CFR 982.314(e)(1). DHC will notify the local HUD office before denying a move for this reason.

- **Terminate HAP Contract** - DHC may terminate a HAP Contract under 24 CFR 982.454.
- **Terminate Assistance of a Participant** - DHC may terminate the assistance of a participant. If DHC exercises this option, the assistance of participants who have been in the HCVP the longest, based upon move-in date, shall be terminated. However, the assistance of an elderly participant or of a disabled participant who is the head of household shall not be terminated.

Participants will receive written notification at least 30 days before the effective date of the termination that states the reason for the termination and specifies the effective date of the termination. The notice shall also inform the participant of the right to request an informal hearing.

Participants for whom assistance is terminated based upon insufficient HAP funding will not be eligible for reinstatement to the HCV Program once sufficient HAP funds are available.

DHC will notify the local HUD field office and its financial analyst at the Financial Management Center before issuing notices of termination of assistance.

- **New Voucher Issuance** - DHC may stop issuing vouchers to applicants.
- **Rescind Outstanding Vouchers** - DHC may rescind outstanding vouchers for applicants searching for housing that have not yet resulted in an executed HAP Contract.
- **Lower Payment Standards** - DHC may lower payment standards for all or some unit sizes.

PART VI: RECORD-KEEPING

16.6.A. OVERVIEW

DHC must maintain complete and accurate accounts and other records for the HCV Program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, DHC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16.6.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three (3) years thereafter, DHC must keep:

- A copy of the executed lease.
- The HAP Contract; and
- The application from the family.

In addition, DHC will keep the following records for at least three (3) years:

- Records that provide income, racial, ethnic, gender, and disability status data on HCV Program applicants and participants.

- An application from each ineligible family and notice that the applicant is not eligible.
- HUD-required reports.
- Unit inspection reports.
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting DHC budget and financial statements for the HCV Program.
- Records to document the basis for DHC determination that rent to owner is a reasonable rent, initially and during the term of a HAP Contract, and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements.

16.6.C. RECORDS MANAGEMENT

All applicant and participant family information will be kept in a secure location and access will be limited to authorized DHC staff and agents.

DHC staff will not discuss personal applicant or participant family information unless there is a business reason to do so. Inappropriate discussion of applicant or participant family information or improper disclosure of applicant or participant family information by DHC staff and agents may result in disciplinary action.

1. Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of federal, state, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or DHC may release the information collected.

2. Upfront Income Verification (UIV) Records

HUD requires PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded, e.g., electronic or paper. These

requirements are contained in the HUD issued document, Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.

DHC will adopt and implement the EIV security procedures required by HUD.

3. Criminal Records

DHC may only disclose the criminal conviction records which DHC receives from a law enforcement agency to officers or employees of DHC or to authorized representatives of DHC who have a job-related need to have access to the information [24 CFR 5.903(e)]. DHC must establish and implement a system of records management that ensures that any criminal record received by DHC from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC action without institution of a challenge.

DHC must establish and implement a system of records management that ensures that any sex offender registration information received by DHC from a state or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC action without institution of a challenge. This requirement does not apply to information that is public information or is obtained by DHC other than under 24 CFR 5.905.

4. Medical/Disability Records

DHC is not permitted to inquire about the nature or extent of a person's disability. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC staff should not place this information in the participant file. DHC staff should destroy the document by shredding.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16.7.A. OVERVIEW

DHC has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that DHC is subject to.

16.7.B. REPORTING REQUIREMENT [24 CFR 35.1225(E)]

DHC will report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 15 business days of being so notified by any other medical health care professional.

DHC will provide to the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16.7.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(F)]

At least semi-annually, DHC must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If DHC obtains names and addresses of environmental intervention blood lead level children from the public health department(s), DHC must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, DHC must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least semi-annually, DHC must also report an updated list of the addresses of units receiving assistance under the HCV Program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

PART VIII. PROTECTING TENANTS AT FORECLOSURE

16.8.A. OVERVIEW

The Protecting Tenants at Foreclosure Act (PTFA) was passed to protect tenants from being immediately evicted from their homes when a new owner acquires the unit by foreclosure. Under Section 703 of PTFA, a purchaser of property at foreclosure takes the property subject to the existing lease between the owner and the HCV Program participant. During the remaining term of the lease, the new owner may not evict the HCV Program participant because of the foreclosure or the new owner's desire to have the unit vacated does not constitute good cause under the lease. The new owner must provide the HCV Program participant with a minimum 90-day notice before evicting from the unit regardless of the amount of time remaining on the lease. The purchaser also takes the property subject to the Housing Assistance Payments (HAP) Contract between DHC and the previous owner so DHC will make HAP payments to the new owner who must comply with the HAP Contract. If the new owner intends to occupy the unit as a primary residence, the new owner does not take subject to the lease for the remaining term of the lease

and may provide the HCV Program participant with a notice to vacate at least 90 days before the effective date of such notice.

Project-based Section 8 tenants are subject to Section 702 of the PFTA. A new owner takes title subject to the Section 8 lease, which provides that a tenant may not be evicted except for good cause. During the remaining term of the lease, the new owner may not evict the tenant because of the foreclosure or the new owner's desire to have the unit vacated does not constitute good cause under the lease. The new owner must provide the tenant with a minimum 90-day notice before evicting from the unit regardless of the amount of time remaining on the lease. The purchaser also takes the property subject to the Housing Assistance Payments (HAP) Contract between DHC and the previous owner so DHC will make HAP payments to the new owner who must comply with the HAP Contract.

PTFA's protections shall not preempt any State or local law that provides additional protections for tenants.

16.8.B. DHC RESPONSIBILITIES

If DHC learns that the property is in foreclosure, DHC will:

- Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. This information can most likely be obtained through information that has been sent to the tenant notifying them of the foreclosure, and possibly in a 90-day notice to vacate. Additionally, DHC may review legal notices in the local newspaper or the local governments', web site to keep apprised of foreclosure actions initiated against owners of HCV assisted properties.
- Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP Contract. With the exception of HUD-insured mortgages or loans, defaulting on a mortgage/loan is not a breach of the HAP Contract.
- Attempt to obtain a written acknowledgement of the assignment of the HAP Contract from the successor-in-interest. The written agreement should include a request for owner information such as a Tax Identification Number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP Contract in writing, the assignment is nevertheless effective by operation of law.
- Inform the tenant s/he must continue to pay rent in accordance with the lease, and if the successor-in-interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.
- If DHC is unable to make HAP payments to the successor-in-interest due to an action or inaction by the successor-in-interest that prevents such payments, including (1) the rejection

of payments, (2) the failure of the successor-in-interest to maintain the property in accordance with Housing Quality Standards (HQS) or (3) an inability to identify the successor-in-interest, DHC should inform the family. In order to ensure adequate protection of the tenant's rights DHC may refer tenants, as services are needed, to the local Legal Aid Office.

- DHC will terminate the HAP contract after 90 days and require the participant to move if the new owner fails to request assignment of the existing HAP contract.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16.9.A. OVERVIEW

This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic

Violence, Dating Violence, and Stalking"; 10-I. A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

16.9.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies

16.9.C. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program on the basis or as a direct result of the

fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for assistance or admission.

Definitions of key terms used in VAWA are provided in section 16-9 of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD–5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

PHA Policy

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PHA's policies.

While the PHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

Therefore, if the PHA makes a determination to deny The PHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

16.9.D. DOCUMENTATION

Victim Documentation [24 CFR 5.2007]

PHA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX. D of this plan.

Perpetrator Documentation

PHA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

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

16.9.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, and stalking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-9 of this plan.

16.9.F. VAWA PROTECTIONS AGAINST TERMINATION

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, 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 unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

16.9.G. LIMITATIONS ON VAWA PROTECTIONS [24 CFR 5.2005(D) AND (E)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

PHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

16.9.H. DOCUMENTATION OF ABUSE [24 CFR 5.2007]

PHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX. D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

16.9.I. TERMINATING THE ASSISTANCE OF A DOMESTIC VIOLENCE PERPETRATOR

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would

when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

PHA Policy

The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

16.9.J. NOTIFICATION [24 CFR 5.2005(A)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

- A copy of the PHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2) Contact information for local victim advocacy groups or service providers.

16.9.K. NOTIFICATION TO PROGRAM APPLICANTS AND PARTICIPANTS [24 CFR 5.2005(A)(1)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

PHA Policy

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I. B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16.9.L. NOTIFICATION TO OWNERS AND MANAGERS

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16- 5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

16.9.M. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

16.9.N. CONFLICTING DOCUMENTATION [24 CFR 5.2007(E)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3)The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the PHA will provide

contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation. If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

16.9.O. DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION [24 CFR 5.2007(D)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

16.9.P. FAILURE TO PROVIDE DOCUMENTATION [24 CFR 5.2007(C)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16.9.Q. CONFIDENTIALITY [24 CFR 5.2007(B)(4)]

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. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

PHA Policy

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 and addressed.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

[Insert Name of Housing Provider]

Notice of Occupancy Rights under the Violence Against Women Act[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the housing choice voucher program**,** you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program**,** you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

[1] Despite the name of this law, VAWA protection is available 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.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria 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, as described in the documentation section below.

2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

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 expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

 A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.

 A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

 Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

Confidentiality

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

You give written permission to the PHA to release the information on a time limited basis.

The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.

A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

- You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.
Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.
For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA].**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For 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.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

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 disclosed):_____**

_____

7. **Relationship of the accused perpetrator to the victim:_____**
8. **Date(s) and times(s) of incident(s) (if known):_____**

_____

10. **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.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)

Attachment: Certification form HUD-5382

[Insert name of covered housing provider]

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Housing Choice Voucher Program

Emergency Transfers

The 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),[3] 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.[4] The ability of the 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 the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

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 that the **public housing and housing choice voucher (HCV) programs** are in 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.

[3]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4]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.

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

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's 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.

Confidentiality

The 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 the 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 or persons that committed an act 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 the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The 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 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 the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the 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.

Emergency Transfers: Housing Choice Voucher (HCV) Program

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **[Insert other programs the PHA provides, such as LIHTC or HOME]**
- Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

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, and Incest National Network's National Sexual Assault Hotline at 1-800-656-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.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

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

(4) 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) _____

EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

[Insert Name of Housing Provider]

NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS

UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, stalking and human trafficking.

Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault stalking, and human trafficking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **[insert name of housing provider]** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

Denial of Tenancy

Protections for applicants: Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

Eviction

*Protections for HCV participants***:** Incidents or threats of domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (see 24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, stalking, or human trafficking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

a. Nothing in VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered

include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, stalking, or human trafficking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, stalking, or human trafficking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program;

b. Deny assistance under the covered housing program to the applicant or tenant;

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking at eviction or termination proceedings.

Owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWAs (See FR Notice 1/4/23.)

Moves

A victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse

VAWA generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, VAWA does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is in question against the tenant or an affiliated individual of the tenant. Nor does VAWA prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

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.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release;

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers

[insert name of housing provider] has extensive relationships with local service providers. **[insert name of housing provider]** staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in **[insert name of housing provider]** Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

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:

(1) 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
(2) 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.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

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:

(1) Fear for the person's individual safety or the safety of others; or
(2) Suffer substantial emotional distress.

VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

Attached:

Legal services and the domestic violence resources for the Metro area
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
[insert name of housing provider] VAWA Notice of Occupancy Rights

PART X: FAMILY SELF-SUFFICIENCY

16.10.A. OVERVIEW

The Family Self-Sufficiency (FSS) program is housed in the Detroit Housing Commission Resident Service Department where Service Coordinators administer the program.

The FSS program has been revised in accordance with the FSS Final Rule published June 16, 2022, which amended the FSS regulations in 24 Part CFR 984 and established 24 CFR part 887 (pertaining to FSS in PBRA properties).

16.10.B. WHAT IS THE FAMILY SELF-SUFFICIENCY PROGRAM?

The FSS program helps families in HUD-assisted rental housing to increase their earnings and build financial capability and assets' The FSS program has two key features:

- A financial incentive for participants to increase their earnings in the form of an escrow savings account that increases as participants' earnings increase. The escrow account helps participants build savings that they can use to improve their quality of life and advance their personal goals once they complete the program. Depending on local FSS program policy, escrow funds can also help participants cover the cost of key services that may be needed to make progress toward goals while enrolled in the program, such as employment training or car repair.
- Case management or coaching to help participants access services they may need to overcome barriers to employment, strengthen their financial capability, and address other challenges holding them back from achieving their goals.

Some PHAs are required to run FSS programs, while other PHAs are not. (See Chapter 6 for more information on whether and to what extent PHAs must run an FSS program.) FSS is optional for owners of PBRA developments. Project-based voucher sites that are required to provide supportive services may offer FSS as an option to fulfill that requirement, but a resident may not lose their housing benefit as a result of not participating in FSS.

Under HUD program regulations, resident participation in FSS is completely voluntary. Residents who choose to enroll in FSS work with an FSS program coordinator who helps them identify a series of intermediate- and long-term goals and the steps they plan to take to achieve those goals. These steps include services residents may benefit from accessing, such as job training or basic skills education. The individual goals for each FSS participant and the steps to achieve those goals are recorded in an Individual Training and Services Plan (ITSP). The ITSP is part of an FSS Contract of Participation signed by the agency administering the FSS program and the head of each participating household. The Contract of

Participation records the commitments of the family and the FSS program to work together to achieve the identified goals.

All FSS participants are required to include the following two goals in their ITSP:

- All household members must be independent of welfare cash assistance from federal or state welfare programs at the time of graduation from the program. The requirement applies solely to ongoing cash assistance. Food stamps, Medicaid, or short-term non-recurring cash payments (such as a one-time payment of emergency assistance to help a family avoid eviction or meet a medical expense) are not included.
- The Head of FSS Family (the adult who signed the Contract of Participation) must seek and maintain suitable employment.

Participants can also identify other goals. The base Contract of Participation (CoP) lasts for up to five years from the first income re-certification after the (CoP's) execution date, but participants can graduate sooner so long as they have achieved their goals. If participants need more time to fully achieve their goals, they can request an extension of up to two years for good cause (as defined in 24 CFR 984.303(d)).

Once families enroll in FSS they become eligible to build savings through the FSS escrow account. The FSS escrow account is an account maintained by the PHA or owner that grows as the household earnings of FSS participants increase. Like most residents of subsidized housing, FSS participants pay rent based on a percentage of their household income. When residents' household income rises, the amount they must pay toward rent also rises. Unlike other residents, however, FSS participants have an opportunity to capture increased rent payments in the form of escrowed savings. For FSS participants, the PHA or owner will deposit an amount generally equal to the increase in rent due to the household's increased earnings into the FSS escrow account. This allows FSS participants to build savings over time. (See 24 CFR 984.305) for HUD regulations about the FSS escrow account.

FSS participants can access their escrowed savings in two main ways. First, when FSS participants graduate from the program by achieving their ITSP goals, the PHA/owner is required to issue them the full amount of their escrowed savings (minus any amount owed to the PHA/owner) which they may use for any purpose. Second, depending on the program's policies, FSS participants may be allowed to access their escrowed funds prior to graduation when they have achieved one or more interim goals. FSS escrow funds may only be released while the participant is still in the program if the funds will be used for a purpose consistent with the participant's ITSP. For example, some FSS programs allow participants to withdraw FSS escrow funds to pay for college tuition or a job training program or repairs to a car needed to commute to work.

There are also other, less common, circumstances under which participants can access the balance of their FSS escrow accounts without graduating from the FSS program (described under "Termination with Escrow Disbursement" in Section 2.3).

All FSS programs have program coordinators who provide service coordination to participants throughout the course of their participation in the program. FSS program coordinators help participants stay on track toward achieving their goals and access resources in the community to support their progress.

To achieve their individual goals, many participants will need services and resources. These may include employment services (such as resume building, job search assistance, and job training), services to build financial capability (including credit counseling, financial education, and asset-building programs), educational programs (such as basic skills development, ESL classes, GED preparation, two- or four-year college courses, and job training), and other wrap-around services such as health care, childcare, transportation, and emergency services. HUD does not fund these services, and most PHAs and owners do not provide them directly. Instead, FSS programs generally form partnerships with service providers in the community and then refer FSS participants to those partners to access the needed services. FSS program coordinators also assess the needs of FSS participants (or make referrals for assessments), help participants set goals, and provide ongoing support and encouragement to help participants achieve their goals. (See Chapter 2 for more information on the role of the FSS program coordinator.)

16.10.C. FSS ACTION PLAN

In order to offer an FSS program, a PHA or owner must prepare an FSS Action Plan and submit it to HUD for approval. The FSS Action Plan describes the size of the FSS program, the services that it will offer, and how the program will be administered. In addition to understanding the rules that HUD has specified for the FSS program, it is critical that FSS program coordinators be familiar with the rules that their FSS program has adopted through their HUD-approved FSS Action Plan.

The FSS Action Plan must contain the following information:

- Family demographics: A description of the characteristics of the families expected to be served by the FSS program (including ethnic and racial data, program size) and the supportive service needs of the expected population.
- Estimate of participating families (program size/number of FSS slots): An estimate of the number of eligible families who can reasonably be expected to receive service based on available resources. For PHAs, please note this is different from the minimum number of families that a PHA is funded to serve.
- Eligible families from other self-sufficiency programs: If applicable, the number of families, by program type, who are participating in other local self-sufficiency programs and are expected to agree to execute an FSS CoP;

- FSS family selection procedures: Policies and procedures for selecting FSS participants, including whether the PHA or owner will offer a preference to prospective participants who are already enrolled in, or on the waiting list for, other service programs.
- Outreach efforts: A description of the planned outreach efforts by the PHA or owner to recruit FSS participants from among eligible families and to provide FSS information to minority and non-minority families.
- Incentives to encourage participation: A description of the incentives that the PHA or owner intends to offer eligible families to encourage participation in the FSS program, including FSS escrow accounts.
- FSS activities and supportive services: A description of the activities and supportive services to be provided to FSS families by both public and private providers.
- Method for identification of family support needs: A description of how the PHA or owner will identify the needs of participating families and deliver the appropriate support services.
- Program termination; withholding of services; and available grievance procedures: A description of all policies concerning termination of participation in the FSS program, or withholding of coordination of supportive services, on the basis of a family's failure to comply with the requirements of the CoP; and the grievance and hearing procedures available for FSS families.
- Assurances of non-interference with the rights of non-participating families: A statement that provides an assurance that a family's election not to participate in the FSS program will not affect the family's participation in the rental assistance program.
- Timetable for program implementation: A timetable for implementation of the FSS program, as provided in § 984.301(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in § 984.301;
- Certification of coordination (for PHAs only): A certification by the PHA that the development of the services and activities scheduled to be provided under the FSS program has been coordinated with public and private providers, including self-sufficiency programs of the Departments of Labor and Health and Human Services, and other employment, childcare, transportation, training, and education programs. The FSS Action Plan must state that implementation will continue to be coordinated with these local public and private providers in order to avoid duplication of services.(This provision does not apply to PBRA owners.)
- Optional additional information: Any additional information that supports the soundness of the proposed FSS program.
- The FSS Action Plan must also describe all FSS policies over which the PHA or owner has discretion, and other information that would help HUD determine the soundness of the proposed FSS program. This may include, among other topics:

- Policies related to the modification of goals in the ITSP;
- The circumstances in which an extension of the Contract of Participation may be granted;
- Policies on the interim disbursement of escrow, including limitations on the use of the funds (if any);
- Policies regarding eligible uses of forfeited escrow funds by families in good standing;
- Policies regarding the re-enrollment of previous FSS participants, including graduates and those who exited the program without graduating;
- Policies on requirements for documentation for goal completion;
- Policies on documentation of the household's designation of the "Head of FSS Household; and
- Policies for providing an FSS selection preference for porting families (if the PHA elects to offer such a preference).

Once an Action Plan has been approved by HUD, it does not need to be resubmitted to HUD for approval unless the PHA or owner proposes to make policy changes or to increase the size of its FSS program. In preparing the FSS Action Plan, PHAs and owners must consult with their Program Coordinating Committee. (See Section 3.3 of this guidebook for more information on Program Coordinating Committees.) PHAs and owners shall also consult with representatives of current and prospective FSS program participants and other agencies, or service providers affected by the FSS program.

Role of the FSS Program Coordinator

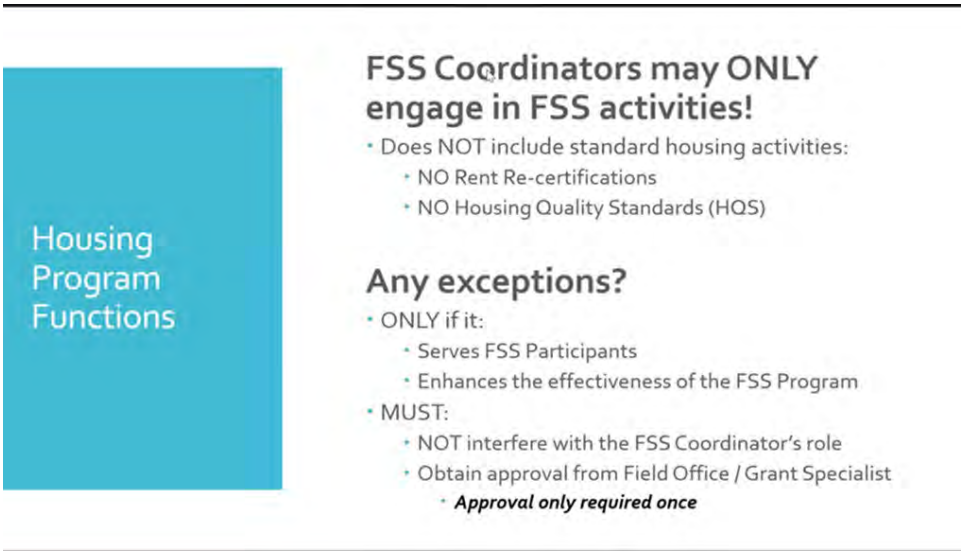
Coordinators execute many functions, including:

- Recruiting participants
- Assessing participants
- Helping participants set goals
- Formalizing the Individual Training and Services Plan and Contract of Participation
- Building partnerships with service providers
- Supporting participants in job search, placement, retention, and advancement
- Helping participants achieve other goals such as education, training, and preparing for homeownership
- Making referrals to service providers
- Monitoring participant progress
- Maintaining escrow accounts and approving escrow disbursement
- Determining when a participant can successfully graduate
- Keeping records of interactions with participants

- Facilitating coordination on FSS among management, finance, and program staff
- Providing information to enable the PHA to complete the required HUD reporting
- Reporting on program outcomes

The many functions generally executed by FSS program coordinators are listed in the box to the right. PHAs and owners have the discretion to determine exactly how to structure their staffing for FSS. In some organizations, the FSS program coordinator will be responsible for all functions associated with running the FSS program. In others, responsibilities are divided among staff. For example, one coordinator may handle the design and implementation of the program while another coordinator has primary responsibility for case management or coaching. A larger FSS program might have an FSS program manager who is responsible for overseeing the work of several program coordinators and building strategic partnerships with service providers. Alternatively, an FSS program may take on outside contractors or work with a nonprofit or other governmental organization (workforce development agency, department of social or human services) to manage staffing needs.

FSS coordinators are outward-facing as well as participant-focused. They must be able to assess the landscape of the services available in the community, identify overlaps and gaps, convene partners, and understand systems and program designs of FSS and other partner agencies. The FSS program coordinator also must be able to establish and maintain high quality, collaborative relationships with service provider partners in the government, non-profit, and private sectors. These skills are separate from, and in addition to, the skills of a case manager or coach, which are also necessary to do the job well.



CHAPTER 17

PROJECT BASED VOUCHERS

PART I: GENERAL REQUIREMENTS

17.1.A. OVERVIEW [24 CFR 983.5]

The project-based voucher program (PBVP) allows PHAs that already administer a tenant-based voucher program under an annual contribution contract (ACC) with HUD to take up to 20% of its Consolidated Annual Contributions Contract (ACC) authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [24 CFR 983.57(b)(1)]. DHC must determine the amount of budget authority that is available for project-based vouchers and ensure that the amount of assistance that is attached to units is within the amounts available under the ACC.

17.1.B. DHC POLICY

DHC may operate a project-based voucher program using up to 20% of its ACC authorized units for project-based assistance. DHC assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP Contract, DHC is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, DHC is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

For these projects, the project cap is the greater of 25 units or 40%, instead of 25%, of the units in the project (see Section 18.2G).

Summary of Change: Under HOTMA DHC may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories.

The units eligible for inclusion in this 10percent exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For example, if 10 percent of ACC authorized units is 100, the PHA may project base 50 units for homeless families and 50 units for units providing supportive housing to persons with disabilities or elderly persons.

(1) Exception Categories:

(a) **Homeless**. The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR §578.3. The definition of homeless is included below for convenience: 1

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

- 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 or train station, airport, or camping ground.
- 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
- 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.

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

- The primary nighttime residence will be lost within 14days of the date of application for homeless assistance.
- No subsequent residence has been identified; and
- The individual or family lacks the resources or support networks, e.g., family, friends, faith- based or other social networks needed to obtain other permanent housing.

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

- Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 1437e-2), section 330(h) of the Public Health Service Act (42 U.S.C.254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section l 7{b) of the Child Nutrition Act of 1966 (42U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless
- assistance.
- Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance: and
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(iv) Any individual or family who:

- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life- threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence.
- Has no other residence; and
- Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

(b)**Veterans**. The units are specifically made available to house families that are comprised of or include a veteran. A veteran is an individual who has served in the United States armed forces. A "veteran" is also an i-n d i v i d u a l with an "other than dishonorable" discharge status who is ineligible for healthcare provided through the Veterans Health Administration. Veteran status will be verified through US military discharge papers, medical records, etc.

HUD-awarded vouchers specifically designated for project-based assistance out of HUD-VASH appropriated funding are already excluded from the program cap and are not to be included under this 10 percent exception category.

(c) **Supportive services**. The units provide supportive housing to persons with disabilities or to elderly persons. For the purpose of this exception, supportive housing means: A project that

makes supportive services available for all the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing.

Such services may include (but are not limited to):

- meal service adequate to meet nutritional need.
- housekeeping aid.
- transportation services.
- health-related services.
- childcare.
- educational and employment services.
- job training.
- counseling: health Insurance Counseling and Advocacy Program case Management provides for an individual to conduct a comprehensive assessment of a frail older adult's needs and arrange for in-home services.
- referral and Resources to Legal Assistance.
- multipurpose Senior Services Program.
- senior Community Services Employment Program.
- senior Information and Assistance Program.
- connection to the local Agency on Aging.
- housing Assistance-may include a resource provision of physical adaptations and assistive devices, emergency assistance in situations that demand relocation, temporary lodging expenses in particular situations, and assistance to restore utility services.
- chore and Personal Care Assistance resources to services that can provide elderly persons who need outside help to maintain independent living. Chore is for purposes of household support and applies to the performance of household tasks rather than to the care of the client. Personal Care provides assistance to maintain bodily hygiene, personal safety, and activities of daily living.
- meal Services may include meals served in congregate settings or meals delivered to clients who are homebound, unable to prepare their own meals and have no caretaker at home to prepare meals for them.
- social Services may include social reassurance / friendly visiting, individual or group counseling, and money management.
- communications Services may include resources for translation and interpretive services; and

– other services designed to help the recipient live in the community as independently as possible.

(d) Are located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey Five-Year Estimates.

DHC's authorized jurisdiction for the HCV Program is the City of Detroit and the counties of Wayne, Oakland, Lapeer, Macomb, and St. Clair. The five counties are diverse in population and economics, including urban, suburban, and rural areas. Some areas, such as the City of Detroit, are predominately classified as minority and/or economically impacted. In accordance with the City of Detroit Consolidated Plan, DHC is committed to creating communities that incorporate homeownership, commercial property, access to public transportation, and quality, diverse, affordable rental housing for various populations. DHC may elect to increase, limit, or reduce the number of project-based awards to particular areas of its jurisdiction to meet its objectives. DHC may elect to increase, limit, or reduce the number of project-based awards to a particular area of its jurisdiction to meet its objectives.

DHC intends to make use of the project-based component of the HCV Program in accordance with the selection procedures in 24 CFR 983.51(b)(1) and (2). Using these selection procedures DHC may grant vouchers to qualified projects owned or developed for special needs populations, including persons with disabilities, homeless families requiring an array of services to stabilize their lives or other groups of persons whose housing is adversely impacted by local housing market conditions.

DHC may grant vouchers to qualified projects owned or developed for occupancy in the City of Detroit, including qualified projects in which DHC has an ownership or redevelopment interest. DHC may elect to limit awards to specific sectors of the City of Detroit.

DHC intends to make use of the project-based component of the HCV Program in several ways: (1) on new construction or rehabilitation that substantially exceeds Housing Quality

Standards: (2) on property acquired by DHC that will be rehabilitated and/or developed and/or operated by DHC; (3) in DHC's Scattered Sites portfolio; and (4) on projects converted into the HUD Rental Assistance Demonstration Program (RAD).

17.1.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE RULES (24 CFR 983.2)

Except as otherwise noted in this Chapter 18, or unless specifically prohibited by PBVP regulations, DHC policies for the tenant-based voucher program contained in this Admin Plan also apply to the PBVP and its participants.

PART II: PBVP OWNER PROPOSALS

17.2.A. SELECTION OF PBV PROPOSALS (24 CFR 983.51(A), (B) AND (C)):

1. Selection Process

DHC may use a direct competitive process to select projects to receive project-based vouchers. DHC will use a competitive process when DHC has determined that it wishes to set aside a given number if vouchers for projects being developed within its jurisdiction to further the goals of deconcentrating poverty, creating sustainable, affordable housing, and furthering local economic opportunities.

DHC will advertise its Request for Proposals (RFP) for new, rehabilitated, or existing housing in a regulated open-ended process. This process will allow DHC to receive competitive as well as noncompetitive proposals throughout the year and evaluate proposals as DHC deems appropriate and in accordance with DHC Procurement Policy. DHC will determine and include the length of time that each RFP will remain open during the solicitation process. DHC will also post the RFP on its website. The advertisement will specify the number of units DHC estimates it will be able to assist under the available funding. Proposals will be due to DHC by the close of business by the date set in the RFP. Only proposals that are timely submitted and that respond to all requirements of the RFP will be considered. Incomplete proposals will not be reviewed.

A successful proponent will be notified by DHC, in writing, of its selection. DHC will also notify the unsuccessful proponents, in writing, of its selection. The selection will also be posted on DHC's website.

DHC will make detailed application and selection information available at the request of interested parties. DHC will make these documents available for review at DHC's Assisted Housing office during normal business hours.

a. Proposals for Rehabilitated and Existing Units (24 CFR 983.51)

A review team consisting of DHC staff will review the proposals, make a determination as to acceptability and score and rank them. DHC will review the proposals using the following criteria:

- The proponent's experience, qualifications, and capability to manage or rehabilitate housing as specified in the RFP.
- The extent to which the project furthers DHC's goal of de-concentrating poverty and expanding housing and economic opportunities.
- Whether the site is suitable from the standpoint of facilitating and further full compliance with applicable civil rights laws.
- Whether the site meets the HQS or NSPIRE site standards of 24 CFR 982.401(1).
- Whether the site meets the site and neighborhood standards specified in 24 CFR 983.57(d).

- Developments that substantially exceeds Housing Quality Standards.
- Plan for complying with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) (24 CFR 983.7) (rehabilitated units); and
- Such other factors as DHC may deem appropriate.

b. Proposals for New Housing (24 CFR 983.51)

A review team consisting of DHC staff will review the proposals, make a determination as to acceptability and score and rank them. DHC will review the proposals using the following criteria:

- The proponent's experience, qualifications, and capability to build housing as specified in the RFP.
- Whether the site meets the site and neighborhood standards specified in 24 CFR 983.57(e)
- Developments that substantially exceeds Housing Quality Standards.
- Plan for complying with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) (24 CFR 983.7); and
- Such other factors as DHC may deem appropriate.

2. <u>Non-Competitive Proposals Subject to a Previous Competition Under a Federal, State or Local Housing Assistance Program</u>

DHC will accept PBV proposals, on an ongoing basis, from projects where the proposal has been selected, within three (3) years of the PBV proposal selection date, by a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTC's have been provided), and the earlier competitively selected proposal did not involve any consideration that the project would receive PBV assistance.

DHC will advertise its Request for Proposals (RFP) for new, rehabilitated, or existing housing in accordance with applicable language within DHC Procurement Policy. The RFP will specify the following information:

1. Selection Process.
2. General evaluation and selection criteria for the proposals.
3. Proposal Selection Date.
4. Final Selection Notification.
5. 25 percent Cap on PBV Units in a project.
6. Supportive Services.
7. Site Selection Standards.
8. Execution of the Agreement to Enter into AHAP.
9. Evidence of Completion.
10. Execution of HAP Contract.
11. Term of HAP Contract.
12. Additional Housing Quality and Design Requirements.

13. Remedies for HQS or NSPIRE Violations.
14. Vacancy Payments.
15. Eligibility for PBV Assistance.
16. Organization of the Waiting List.
17. Preferences.
18. Filling Vacancies.
19. Reduction in HAP Contract Units Due to Vacancies.
20. Tenant Screening.
21. Overcrowded, Under-Occupied, and Accessible Units

Proposals will be reviewed on a first-come, first-served basis. DHC will evaluate each proposal on its merits using the following criteria:

- The extent to which the project furthers DHC's goal of de-concentrating poverty and expanding housing and economic opportunities; and
- Such other factors as DHC may deem appropriate.

17.2.B. DHC-OWNED UNITS [24 CFR 983.51(E) AND 983.59]

A DHC-owned unit may be assisted under the PBVP only if the HUD field office or a HUD-approved independent entity reviews the selection process and determines that DHC-owned units were appropriately selected based on the selection procedures specified in DHC's Admin Plan. If DHC selects a proposal for housing that is DHC- owned or controlled, DHC will identify the independent entity that will review the proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of DHC-owned units, the initial contract rent will be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections will be conducted by an independent entity.

The independent entity that performs these program services will be a HUD-approved public or private entity.

17.2.C. HOUSING TYPE [24 CFR 983.52]

DHC may use PBV assistance for existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a HAP Contract that was executed before the start of construction.

DHC must decide what housing type, new construction, rehabilitation, or existing housing will be used to develop PBV housing. DHC's choice must be reflected in any solicitation for proposals.

17.2.D. INELIGIBLE UNITS [24 CFR 983.53 AND 983.52]

Ineligible units for PBV assistance include those that are:

- Shared housing.
- Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institutions.
- Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (However, a dwelling unit in an assisted living facility that provides home health care services is eligible).
- College or other school dormitories.
- Manufactured homes.
- Cooperative housing
- Transitional housing.
- Public housing.
- Unit subsidized with any other form of Section 8 Assistance.
- Unit subsidized with any governmental rent subsidy.
- Units already subsidized by another form of project-based Section 8, Section 236 rental assistance, or Section 521 rental assistance; or subsidized by Section 202, Section 162, Section 811, or Section 101 Rent Supplement.

In addition, DHC may not attach or pay PBV assistance for a unit occupied by an owner. DHC may not select or enter into an agreement to enter into a HAP contract or a HAP Contract for a unit occupied by a family ineligible for participation in the PBVP. DHC may not select any units in which construction or rehabilitation has commenced as defined in 24 CFR 983.152 after proposal submission and prior to execution of an AHAP.

17.2.E. HIGH-RISE ELEVATOR PROJECTS FOR FAMILIES WITH CHILDREN [24 CFR 983.53(B)]

DHC, in its sole discretion, may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves DHC's determination. DHC will review each such project on a case-by-case basis.

17.2.F. SUBSIDY LAYERING REQUIREMENTS FOR NEW CONSTRUCTION AND REHABILITATED HOUSING [24 CFR 983.55]

DHC will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBVP with other governmental

housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

DHC will submit the necessary documentation to HUD for a subsidy layering review. Except in cases of HAP Contracts for existing structures, or if the subsidy layering review has been conducted by the applicable state or local agency, DHC may not enter into an agreement to enter an AHAP contract or a HAP Contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP Contract must contain the owner's certification that the project has not received and will not receive, before or during the term of the HAP Contract, any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17.2.G. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

1. 25% per Project Cap [24 CFR 983.56(a)]

In general, DHC may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP Contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP Contract is more than the greater of 25 units or 25% of the number of dwelling units, assisted or unassisted, in the project.

2. Exceptions to 25% Project Cap

Exceptions are allowed and PBV units will not be counted against the 25% or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey Five-Year Estimates

For these projects, the project cap is greater of 25 units or 40%, instead of 25%, of the units.

Supportive Services – under consideration

3. Promoting Partially Assisted Buildings [24 CFR 983.56(c)]

A partially assisted building is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3]. At this time, DHC will not set a certain percentage for partially assisted buildings but will review each project on a case-by-case basis.

17.2.H. SITE SELECTION STANDARDS

1. Compliance with PBV Goals, Civil Rights Requirements, and HQS or NSPIRE Site Standards [24 CFR 983.57(b)]

It is DHC's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In meeting this goal, DHC will limit approval of sites for PBV housing to census tracts that have poverty concentrations of 20% or less as HUD defines areas of 20% or less of poverty to be de-concentrated areas.

However, DHC will grant exceptions to the 20% standard where DHC determines that the PBV assistance will complement other local redevelopment activities designed to de- concentrate- poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20%, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD- designated Enterprise Zone, Economic Community, or Renewal Community.
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment.
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area.
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area.
- A census tract where there has been an overall decline in the poverty rate within the past 5 years.
- A census tract where there are meaningful opportunities for educational and economic advancement.
- Redevelopment and reuse of existing building not previously used as housing; or
- Development of unique affordable housing types not currently offered or offered on a limited basis within DHC's jurisdiction.

2. Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

DHC will not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract for existing or rehabilitated housing until it has determined that the site complies with HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- Have adequate utilities and streets available to service the site.
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.
- Have an architect's certification affirming that the project meets accessibility requirements.

3. New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- The site must have adequate utilities and streets available to service the site.
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area.
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low- income persons.
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate.
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

An architect's certification of the plans and specifications as well as a certification upon construction completion affirming that the project meets accessibility requirements.

17.2.I. ENVIRONMENTAL REVIEW [24 CFR 983.58]

DHC activities under the PBVP are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C.4321 et seq.). DHC may not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract until it has complied with the environmental review requirements. Projects that fail the environmental review will be rejected by DHC.

In the case of existing housing, the responsible entity that is responsible for an environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

DHC may not enter into an agreement to enter into a HAP contract or a HAP Contract with an owner, and DHC, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

DHC must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. DHC will require the owner to carry out all mitigating measures required by the responsible entity, or HUD, if applicable, as a result of the environmental review.

PART III: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17.3.A. AGREEMENT TO ENTER INTO A HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, DHC must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS or NSPIRE, and DHC agrees that upon timely completion of such development in accordance with the terms of the Agreement, DHC will enter into a HAP Contract with the owner for the contract units [24 CFR 983.152(b)].

1. Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBVP:

- Site and the location of the contract units.
- Number of contract units by area (size) and number of bedrooms and bathrooms.
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent.
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant.
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement.
- Estimated initial rents to owner for the contract units
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by DHC, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS or NSPIRE.

2. Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after DHC receives both environmental approval and notice that the subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17.3.B. LABOR STANDARDS [24 CFR 983.154(B)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner ‘s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. DHC will monitor compliance with labor standards.

17.3.C. EQUAL OPPORTUNITY [24 CFR 983.154(C)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

17.3.D. OWNER DISCLOSURE [24 CFR 983.154(D) AND (E)]

The Agreement and HAP Contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract, or HUD regulations.

PART IV: DWELLING UNITS

17.4.A. HOUSING QUALITY STANDARDS OR NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE [24 CFR 983.101]

The housing quality standards (HQS) or NSPIRE standards for the tenant-based program, including those for special housing types, generally apply to the PBVP. The physical condition standards at 24 CFR 5.703 do not apply to the PBVP.

17.4.B. LEAD-BASED PAINT [24 CFR 983.101(C)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBVP. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821- 4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851- 4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBVP.

17.4.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DHC will ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C. Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17.4.D. EVIDENCE OF COMPLETION [24 CFR 983.155(B)]

The Agreement will specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement will also specify the deadline for submission by the owner of the required evidence of completion. At a minimum, the owner must submit the following evidence of completion to DHC in the form and manner required by DHC:

- Owner certification that the work has been completed in accordance with HQS or NSPIRE and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

DHC may, in its sole discretion, specify within the Agreement additional documentation that must be submitted by the owner as evidence of housing completion.

17.4.E. DHC ACCEPTANCE OF COMPLETED UNITS [24 CFR 983.156]

Upon notice from the owner that the housing is completed, DHC will inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS or NSPIRE and any additional requirements imposed under the Agreement. Additionally, DHC will verify that the owner has submitted all required evidence of completion. If the work is not completed in accordance with the Agreement, DHC will determine if deficiencies are correctable, lay out correction requirements and conditions for acceptance, and promptly notify the owner. If DHC determines that the deficiencies are not correctable, the Agreement is not enforceable and DHC will not enter into the HAP Contract. However, if DHC determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, DHC will submit the HAP Contract for execution by the owner and then execute the HAP Contract.

17.4.F. DHC INSPECTION OF UNITS

1. Pre-selection Inspection [24 CFR 983.103(a)]

DHC will examine the proposed site before the proposal selection date. If the units to be assisted already exist, DHC will inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS or NSPIRE. To qualify as existing housing, units must substantially comply with HQS or NSPIRE on the proposal selection date. However, DHC will not execute the HAP Contract until the units fully comply with HQS or NSPIRE.

2. Pre-HAP Contract Inspections [24 CFR 983.103(b)]

DHC will inspect each contract unit before execution of the HAP contract. DHC will not enter into a HAP contract covering a unit until the unit fully complies with HQS or NSPIRE.

3. Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, DHC must inspect the unit. DHC will not provide assistance on behalf of the family until the unit fully complies with HQS or NSPIRE.

4. Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP Contract, DHC must inspect a random sample, consisting of at least 20% of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS or NSPIRE. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20% of the annual sample of inspected contract units in a building fails the initial inspection, DHC will re-inspect 100 percent of the contract units in the building.

5. Other Inspections [24 CFR 983.103e]

DHC will inspect contract units whenever needed to determine that the contract units comply with HQS or NSPIRE, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP Contract. DHC must consider complaints and any other information coming to its attention in scheduling inspections.

DHC will conduct follow-up inspections needed to determine if the owner or, if applicable, the family, has corrected an HQS or NSPIRE violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of HQS or NSPIRE.

6. Inspecting DHC-Owned Units [24 CFR 983.103(f)]

In the case of DHC-owned units, the inspections will be performed by an independent agency designated by DHC and approved by HUD. The independent entity must furnish a copy of each inspection report to DHC and to the HUD field office where the project is located. DHC will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by DHC.

PART V: HAP CONTRACT

17.5.A. PURPOSE OF HAP CONTRACT [24 CFR 983.202]

DHC will enter into a HAP Contract with an owner for units that are receiving PBV assistance. The purpose of the HAP Contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term. The HAP Contract must be in the form required by HUD [24 CFR 983.202].

17.5.B. HAP CONTRACT REQUIREMENTS

1. **Contract Information [24 CFR 983.203]**

The HAP Contract must specify the following information:

HAP Contract Part I

- Exhibit A
  - The total number of contract units by number of bedrooms.
  - The project ‘s name, street address, city or county, state and zip code, block, and lot number, if known, and any other information necessary to clearly identify the site and the building.
  - The number of contract units in each building by bedroom size as well as accessibility for persons with disabilities.
  - Maximum number of units by bedroom size and type that may receive assistance at any time.
  - Multi-stage projects must include a description for units in each completed phase.
- Exhibit B
  - Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner.
  - Supportive services and/or referrals to be provided at the property.
- Exhibit C
  - Utilities available to the contract units, including a specification of utility services to be paid by the owner, included in rent, and utility services to be paid by the tenant.
- Exhibit D
  - Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8.
- Additional Exhibits
  - As determined and/or required by DHC.

- Identify if this property requires a Single or Multi-Stage HAP Contract
  - Single stage - the HAP Contract is executed upon acceptance of all of the units.
  - Multi-Stage

- HAP Contract must identify the specific units for each stage.
- HAP Contract is executed upon acceptance of units in the first stage.
- The effective date of the first stage establishes the initial term of the HAP Contract as well as the anniversary date for each subsequent stage of the HAP Contract.

HAP Contract Part II

- The HAP Contract term; and
- The initial rent to owner for the first 12 months of the HAP Contract term.

2. Execution of the HAP Contract [24 CFR 983.204]

DHC will not enter into a HAP Contract until each contract unit has been inspected and DHC has determined that each unit complies with HQS or NSPIRE. For existing housing, the HAP Contract will be executed promptly after DHC selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP Contract will be executed promptly after DHC has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the owner furnishes all required evidence of completion.

The HAP Contract must be in the form required by HUD (see 24 CFR 982.162). The purpose of the HAP Contract is to provide housing assistance payments for eligible families. DHC will make housing assistance payments to the owner in accordance with the HAP Contract and housing assistance will be paid for contract units leased and occupied by eligible families during the HAP Contract term.

3. Term of HAP Contract [24 CFR 983.205]

The length of the Initial Term of the HAP Contract for any contract unit may not be less than one (1) year or more than twenty (20) years. The length of the term of a HAP contract for any contract unit may not be less than one year, nor more than twenty. In the case of DHC owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD. If the owner desires to extend the HAP Contract beyond the Initial Term, no later than one (1) year before expiration of the Initial Term, the owner must submit, in writing, a request for an extension of the HAP Contract. Provided, that extensions of a HAP Contract may not exceed -20 years cumulatively, Extensions after the initial extension are allowed provided that the owner requests an extension, in writing, and DHC approves the extension not more than 24 months prior to the expiration of the previous extension. When determining whether or not to extend an expiring PBV contract, DHC will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority.
- The condition of the contract units.
- The owner's record of compliance with obligations under the HAP contract and lease(s).
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

DHC may agree, in its sole discretion, to extend the term of the HAP Contract in 5-year increments if DHC determines (1) an extension is appropriate to continue providing affordable housing for low-income families, or (2) to expand housing opportunities, and (3) that the owner is in compliance with the terms of the HAP Contract.

4. Termination by DHC [24 CFR 983.205(c)]

The HAP Contract must provide that the term of DHC's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by DHC in accordance with HUD's instruction. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract. The HAP

Contract may be terminated by DHC if it is determined that there are insufficient funds available to fulfill the term of DHC's contractual commitment. Furthermore, if it is determined by DHC that there are insufficient funds to continue the housing assistance payments for all contract units and for the full term of the HAP Contract, DHC may terminate the HAP Contract by notice to the owner for all or any of the contract units.

The termination must be implemented in accordance with HUD instructions.

5. Termination by Owner [24 CFR 983.205(d)]

The owner may terminate the HAP Contract, upon notice to DHC, if the amount of the rent to owner for any contract unit, as adjusted in accordance with HUD regulations (24 CFR 983.302), is reduced below the amount of the initial rent to owner. In this case, DHC will offer the assisted family's tenant-based HCV vouchers.

6. Remedies for HQS or NSPIRE Violations [24 CFR 983.207(b)]

DHC will abate and terminate HAP Contracts for non-compliance with HQS or NSPIRE in accordance with the policies used in the tenant-based voucher program.

17.5.C. HAP CONTRACT AMENDMENTS CFR 983.207

1. Substitution of Contract Units [24 CFR 983.206(a)]

DHC and the owner will designate the units that will receive the project-based assistance. After the units have been designated, DHC may amend the HAP Contract to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit.

2. Addition of Contract Units [24 CFR 983.206(b)]

DHC may amend the HAP Contract during the 3-year period following the execution date of the HAP Contract to add contract units in the same project to the HAP Contract when DHC determines that additional housing is needed to serve eligible low-income families. Any additional units must (1) be inspected, (2) meet rent reasonableness criteria, (3) not cause the project to exceed 25% of the total number of dwelling units in the project (assisted and unassisted) unless the units were initially identified in the HAP Contract as excepted from the 25% limitation, and (4) not cause DHC to exceed the 20% of its PBV budget authority. No new proposal is required. The anniversary and expiration date of the HAP Contract for the additional units must be the same as the anniversary and expiration date of the units originally placed under the HAP Contract.

17.5.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(C) AND 983.302(E)]

The HAP Contract year is the period of 12 calendar months preceding each anniversary date of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract term. The anniversary date of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year. There is a single anniversary date and expiration date for all units under a particular HAP contract. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17.5.E. CONDITION OF CONTRACT UNITS [24 CFR 982.207]

The owner must maintain and operate the contract units and premises in accordance with HQS or NSPIRE, including performance or ordinary and extraordinary maintenance. The owner must provide all services, maintenance equipment, and utilities specified in the HAP Contract with DHC and the lease with each assisted family.

17.5.F. OWNER RESPONSIBILITIES [24 CFR 983.208]

The owner is responsible for the following:

- Complying with Equal Opportunity requirements.

- Performing all owner obligations under the HAP Contract and the lease.
- Preparing and furnishing to DHC information required under the HAP Contract.
- Enforcing tenant obligations under the lease.
- Paying for utilities and services unless paid by the assisted family under the terms of the lease; and
- Collecting from the family:
  - Any security deposits.
  - Tenant rent contribution; and
  - Any charges for unit damage by the assisted family.

17.5.G. REASONABLE MODIFICATIONS OF EXISTING PREMISES [24 CFR 100.203]

Owners shall permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling.

The owner may, where reasonable to do so, may condition permission for a modification on the assisted family agreeing to restore the interior of the premises to the condition that existed prior to the modification, reasonable wear and tear excepted, and the owner may not increase, for handicapped persons, any customarily required security deposits.

The owner may condition permission for a modification on receiving from the assisted or to be assisted family a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

17.5.H. OWNER CERTIFICATION [24 CFR 983.209]

By execution of the HAP Contract, the owner certifies with DHC that at such execution and at all times during the term of the HAP Contract:

- All assisted units meet HQS or NSPIRE standards, and the owner is maintaining the premises and all assisted units in accordance with HQS or NSPIRE.
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with the assisted families.
- Each contract unit for which the owner is receiving HAP payments is leased to an eligible family referred by DHC, and the lease is in accordance with the HAP contract, HUD requirements and approved by DHC.
- The owner acknowledges that members of the assisted family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.

- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the assisted family residing in the contract unit.
- The amount of the housing assistance payment is the correct amount due under the HAP Contract.
- The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.
- As provided under the HAP Contract, the owner will not receive any payment or other consideration from the family, DHC, HUD, or any other public or private source for rental of the contract unit; and
- The assisted family does not own or have an interest in the contract unit.

17.5.I. HOUSING QUALITY AND DESIGN REQUIREMENTS [24 CFR 983.101€ AND 983.207(A)]

DHC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. DHC will specify any special design standards or additional requirements in the invitation for PBV proposals, the Agreement, and the HAP Contract.

PART VI: PBV PARTICIPANT SELECTION [24 CFR 983.251]

17.6.A. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(A) AND (B)]

Eligibility for admission must be determined at the commencement of PBV assistance. Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and DHC, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security number information for family members [24 CFR 5.216 and 5.218]. The following household members are exempt from the SSN disclosure requirements:

1. Individuals who do not contend eligible immigration status (“non- contending” family members in a mixed family paying prorated rent).
2. Current residents who had not previously disclosed an SSN, and who were at least 62 years old on January 31, 2010. The exemption applies to all future reexaminations and continues if the individual transfers to a new unit or receives another form of housing assistance.
3. Household members who have already provided a valid SSN prior to January 31, 2010.

and consent to DHC's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity. DHC must determine the applicant's PBV eligibility.

DHC may establish and manage separate site-based waiting lists for individual projects or buildings that receive DHC project-based assistance. DHC may require the owner to establish procedures necessary to manage the application process including but not limited to marketing and advertising to maintain a sufficient number of prospective participants. The application process must be accordance with DHC's Administrative Plan

PBV waiting list will remain open for owner referrals. DHC will place owner referrals on the site-based waiting list based upon the waiting list protocol. Owners of properties participating in the PBVP will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC

- The owners Tenant Selection Plan must include:
    - DHC's Section 8 Program Eligibility Requirements.
    - DHC established Preferences.
    - Authorization for the release of Information/Privacy Act.
    - HUD-approved Fair Housing Waiting List Marketing Plan.

DHC 's website will maintain a list of all approved project-based voucher developments. Currently, DHC has two developments receiving project-based voucher assistance:

- Woodbridge Senior Manor
- AAL/Rivertown

The PBV waiting lists will remain open for owner referrals. DHC will place owner referrals on the site-based waiting lists based upon the waiting list protocol.

Owners of properties participating in the Project-Based Voucher Program will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC. The owner's Tenant Selection Plan must include:

- Project eligibility requirements
- Project-specific requirements
- Income limits
- Procedures for accepting applications from the waitlist
- Procedures for applying any preferences
- Applicant screening criteria
    - Required drug-related or criminal activity criteria.
    - Other allowable screening criteria; and

- Procedures for rejecting ineligible applicants
- Occupancy standards
- Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur
- Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes
- Marketing Plan

17.6.B. IN-PLACE FAMILIES PREFERENCE [24 CFR 983.251(B)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by DHC is considered an in-place family. These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract, either an existing unit or a unit requiring rehabilitation, is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on DHC's waiting list for that site. Once the family 's continued eligibility is determined (DHC may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and DHC will refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in- place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the PVBP on the proposal selection date.

17.6.C. SELECTION FROM THE WAITING LIST [24CFR 983.251(C)]

Applicants who will occupy PBV units must be selected by DHC from the site-based waiting list.

At least 75% of the families admitted to DHC's PBVP during DHC's fiscal year from the waiting list must be extremely low-income families.

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DHC will first refer families who require such features to the owner.

17.6.D. SITE-BASED WAITING LISTS AND PREFERENCES [24 CFR 983.251(D)]

DHC may use the same selection preferences that are used for the tenant-based voucher program, or it may establish different preferences for any site-based waiting list.

DHC will administer separate site-based waiting lists for each of its project-based voucher (PBV) sites. These separate site-based waiting lists may be on a project or building basis. DHC may establish preferences for each PBV waiting list it administers tailored for each site. Preferences may be based on specific characteristics of the project, building or funding source.

DHC will provide an absolute selection preference for eligible in-place families. DHC may deny assistance to these families under the circumstances specified at 24 CFR 983.251(b).

If there is a project with more than the higher of 25 units or 25% of the units receiving project-based assistance because those projects include units specifically made available for elderly or disabled families, DHC will give preference to such families when referring families to these units [24 CFR 983.261(b)].

Preferences

DHC may provide preferences on the PBV waiting lists to families that need specific services provided in property specific supportive housing including seniors, families needing supportive services related to specific disabilities, veterans or families needing assisted living as defined in the project's HAP contract. DHC will verify preferences at the time of eligibility. If the family does not meet the preference, DHC may not place them back on the site waiting list.

If DHC has projects with "excepted units" for elderly families or supportive services, DHC must give preference to such families when referring to these projects.

Applicant families that come within one or more of the following categories will be given a preference as appropriate based upon the project's HAP Contract:

- **Working Preference**

  Applicant family must work a minimum number of hours as defined by specific characteristics of the project, building or funding source, generally this means at least 20 hours per week. This requirement may be met by a combination of work and no more than 10 hours per week in volunteer activities or enrollment in an accredited education, employment, and job training program.

- **Disabled or Elderly Preference**

  Be a person with disabilities or over 62 years.

- **Geographic Preference**

  Live or work in the neighborhood of projects receiving PBV assistance (to be determined on a project-by-project basis).

- **Families in Need of Supportive Services Preference**

  Include persons Families with disabilities who need services offered at a particular project or building if:

  The family includes a member with disabilities that significantly interfere with the ability to obtain and maintain themselves in housing; and

Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and

For whom such services cannot be provided in a non-segregated setting.

- **Homeless Preference**

Families and children who are homeless or are at imminent risk of homelessness.

- **Domestic Violence Preference**

Victims of domestic violence, as defined in the Violence Against Women Act, who are displaced as a result of the domestic violence.

- **Veterans Preference**

Families including a member who is a veteran of the United States Armed Forces.

- **Medical Condition Preference**

Families including a member who has a medical condition that falls with the restrictions imposed by the funding of a specific project or building, i.e., project requires participants to have a Medicare waiver.

- **Other Preferences**

Families including a member who falls within the specific category for which a project or building has been awarded funding.

17.6.E. OFFER OF PBV ASSISTANCE

1. Refusal of Offer [24 CFR 983.251(e)(3)]

DHC is prohibited from taking any of the following actions against a family that has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance.
- Deny any admission preference for which the applicant qualifies.
- Change the applicant ‘s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DHC’s selection policy; or
- Remove the applicant from the tenant-based voucher waiting list.

Once an applicant has refused assistance for an individual PBV site or has been denied by the owner, the applicant will be removed from the waiting list for that site but shall remain on any other DHC PBV and/or tenant-based voucher waitlists to which they have applied. Applicants can refuse units for “good cause” and not suffer an adverse action. Good cause is defined as follows:

1. Unit lacks accessibility features required by a person with disabilities.

2. Serious illness, hospitalization.
3. Death of a family member.
4. Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner ‘s units, such rejection may not affect the family ‘s position on the tenant-based voucher waiting list.

2. Acceptance of Offer [24 CFR 983.252]

When a family accepts an offer for PBV assistance, DHC will give the family an oral briefing. The briefing must include the following:

1. Information on how the PBVP works and the responsibilities of the family and owner.
2. In addition to the oral briefing, DHC must provide a briefing packet that explains How DHC determines the total tenant payment for a family.
3. DHC Utility allowances.
4. The family obligations under the PBVP.
5. Applicable fair housing information.
6. Violence against Women Act (VAWA).
7. When DHC may terminate assistance.
8. Rights to and how to obtain an informal hearing.
9. Provide the family with lead-based paint hazard information if the housing was built prior to 1978 except for a zero-bedroom dwelling, or housing designated for the elderly or persons with disabilities (unless a child less than six is expected to live in such designated housing).
10. Explain that subsidy is tied to the property, but the family may be eligible for a tenant-based voucher after one year of occupancy; and
11. Obtain the family’s signature on the PBV Program Statement of Family Responsibility (maintain a copy for the tenant file and provide a copy to the family).

When performing the briefing, DHC must:

1. Take appropriate steps to ensure effective communication in conducting briefings and in providing written information for persons with disabilities.
2. Take reasonable steps to ensure meaningful access to housing by persons with limited English proficiency.

17.6.F. 17-6F. OWNER SELECTION OF TENANTS

1. Selection Procedures

The owner is responsible for marketing and advertising the waitlist in accordance with the DHC Administrative Plan, taking applications and forwarding them to DHC to be added to the PBV waiting list and for developing written tenant screening and selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant 's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant and DHC of the grounds for any rejection [24 CFR 983.253(b)]. If DHC determines that the owner is rejecting families without good cause or in violation of the law, DHC will require corrective action. If it is determined that the owner's actions appear to be discriminatory, DHC will suspend or terminate the PBV HAP Contract.

2. Leasing [24 CFR 983.253(a)]

During the term of the HAP Contract, the owner must lease contract units to eligible families that are selected and referred by DHC from DHC's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DHC's subsidy standards.

3. Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify DHC in writing via mail, fax, or e-mail within 10 business days of learning about any vacancy or expected vacancy in a contract unit. After receiving such notice, DHC will make every reasonable effort to promptly refer a sufficient number of eligible families of the appropriate size from the DHC waiting list to fill the vacancies. DHC and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy. DHC will accept written referrals from the owner to be placed on the waiting list.

The owner must lease the vacant contract units to only eligible families referred from the waiting list by DHC.

DHC must determine eligibility for participation in accordance with HUD requirements.

At the discretion of DHC, the number of contract units may be reduced if any contract units have been vacant for a period of 120 days since the owner notice of vacancy and notwithstanding the reasonable good faith efforts of DHC and the owner to fill the vacancies, DHC may give notice to the owner that it is amending the HAP Contract to reduce the number of contract units by subtracting the number of contract units, by number of bedrooms, that have been vacant for such period.

17.6.G. TENANT SCREENING [24 CFR 983.255]

- DHC has no responsibility or liability to the owner or any person for the family's behavior or suitability for tenancy and will not conduct screening to determine suitability.
- The owner is responsible for screening and selection of the family to occupy the owner's unit.
- The owner is responsible for screening of families based upon the approved screening criteria previously approved by DHC.
- When screening the family, the owner may consider the family's background with respect to the following factors:
  - Payment of rent and utilities.
  - Caring for a unit and premises.
- Respecting the rights of other residents to the peaceful enjoyment of their housing.
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.
- The owner must promptly provide DHC with a copy of any/and all rejection notices provided to a rejected applicant(s) within 30 days of the rejection. The notice must identify the grounds for which the applicant was rejected.
- DHC will provide all owners with the required known name and address information at the time of the turnover HQS or NSPIRE inspection or before but will not provide any additional information to the owner such as tenancy history, criminal history, etc.
- DHC will provide families with a copy of its policy on providing information to owners; and
- A family may file a discrimination complaint with the HUD field office against the owner, it they believe they have been discriminated against.

PART VII: LEASE [24 CFR 983.256]

17.7.A. GENERAL REQUIREMENTS

The lease between the family and owner must be accordance with HUD regulations and requirements and include all provisions required by HUD and not include any provisions prohibited by HUD.

As per 24 CFR 983.256(d), the lease must include all the program requirements, composition of the approved household, and the HUD approved Tenancy Addendum. The terms of the Tenancy Addendum prevail over other provisions of the lease. DHC will review the dwelling lease for compliance with applicable requirements.

The initial term of the lease must be for not less than one year. Changes in the lease must be approved in writing by the tenant and the owner and immediately delivered to DHC.

1. Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause", or refuse to renew the lease without good cause. Terminating tenancy for good cause does not include doing

so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose. If the owner refuses to renew the lease without good cause, DHC must provide the family with a tenant-based voucher and remove the unit from the owner's PBV HAP Contract.

2. Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by DHC policy. According to HCV Program requirements, the family 's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

3. Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. DHC prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants. When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease. The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant.

DHC has no liability or responsibility for payment of any amount owed by the family to the owner.

17.7.B. MOVES

4. Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If DHC determines that a family is occupying a wrong size unit, based on DHC's subsidy standards, or occupying a unit with accessibility features that the family does not require and the unit is needed by a family that does require the features, DHC will notify the family and the owner of this determination, and DHC will offer the family the opportunity to receive continued housing assistance in another unit.

The family not in need of accessible features must move to another unit within the building or complex so that the accessible features can be utilized by the family in need of such features. If a comparable unit

is not available, a tenant-based voucher may be offered if DHC has the budget authority and/or voucher utilization available. In the event that the family refuses to move to a comparable unit within the complex within a reasonable amount of time, as determined by DHC to be not more than 120 days from date of notice, continued assistance will be denied. DHC will also terminate housing assistance payments to the owner.

If DHC offers the family a tenant-based voucher, DHC will terminate the housing assistance payments for a wrong-sized or accessible unit at the expiration of the term of the family ‘s voucher including any extension granted by DHC.

If DHC offers the family a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DHC, or both, DHC will terminate the housing assistance payments for the unit at the end of the month in which the 120 days from the date of the notice expires. When DHC offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and another 30 days to move to the offered PBV unit. If the family does not move out within this 30-day time frame, DHC will terminate the housing assistance payments at the expiration of this 30-day period.

DHC may make exceptions to this 30-day period if needed for reasons beyond the family ‘s control such as death, serious illness, reasonable accommodations, or other medical emergency of a family member.

5. Family Right to Move [24 CFR983.260]

The family may terminate the lease at any time after the first year of occupancy and the family must give the owner at least 30 days advance, written notice of intent to vacate, in accordance with the lease, with a copy to DHC. If the intent to vacate language is not described in the lease, then a 30-day notice, at a minimum, is required.

If the tenant elected to terminate the lease in this manner, DHC will offer the family other comparable assistance at another project-based development or an opportunity for continued assistance under the HCV Program, if funding is available.

Before the family provides notice of intent to move to the owner, the family must contact DHC to request comparable tenant-based rental assistance if the family wishes to move with continued assistance.

If the family terminates the assisted lease before the end of one (1) year, the family relinquishes the opportunity for continued housing assistance.

VIII DETERMINING RENT TO OWNER [24 CFR 983.301]

17.8.A. DHC PAYMENT TO OWNER FOR OCCUPIED UNIT [24 CFR 983.351]

During the term of the HAP Contract, DHC shall make housing assistance payments to the owner in accordance with terms of the HAP Contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.

DHC may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit even if goods or property are left in the unit.

DHC shall make housing assistance payments to the owner for each contract unit that complies with HQS or NSPIRE and is leased to and occupied by an eligible family in accordance with the HAP Contract.

17.8.B. VACANCY PAYMENT [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out as long as DHC does not determine that the vacancy is the owner's fault. This is the only vacancy payment DHC will make.

17.8.C. TENANT RENT; PAYMENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent paid by the family. Any changes in the amount of tenant rent will be effective on the date stated in DHC's notice to the family and owner.

The family is responsible for paying the tenant rent which is the total tenant payment minus the utility allowance. The amount of the tenant rent determined by DHC is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by DHC. The owner must immediately return any excess payment to the tenant.

The family is not responsible for payment of the portion of rent to owner covered by the housing assistance payment under the HAP Contract and the owner may not terminate the tenancy of an assisted family for non-payment of DHC's housing assistance payment.

DHC is only responsible for making housing assistance payments to the owner on behalf of a family in accordance with

the HAP Contract.

If the amount of the utility allowance exceeds the total tenant payment, DHC will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner will be zero.

17.8.D. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units, as discussed below, the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by DHC not to exceed 110% of the applicable FMR or any HUD-approved exception payment standard for the unit bedroom size minus any utility allowance.
- The reasonable rent; or
- The rent requested by the owner.
- DHC may elect to adopt the use of Small Area Fair Market Rents (SAFMRs) in an entire metropolitan area or specified codes. In doing so, DHC will consider whether to apply the SAFMRs to the PBV program within a designated metropolitan area or specified zip code.

17.8.E. CERTAIN TAX CREDIT UNITS [24 CFR 983.301(C)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a LIHTC under the Internal Revenue Code of 1986.
- The contract unit is not located in a qualified census tract.
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a DHC-determined amount not to exceed 110% of the fair market rent or any approved exception payment standard.

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

1. The tax credit rent minus any utility allowance.
2. The reasonable rent; or
3. The rent requested by the owner.

17.8.F. USE OF FMRS, EXCEPTION PAYMENT STANDARDS, AND UTILITY ALLOWANCES [24 CFR 983.301(F)]

1. <u>Use of FMRs and Utility Allowances in Establishing Rent</u>

When determining the initial rent to owner, DHC will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP Contract. When redetermining the rent to owner, DHC will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination.

Within its sole discretion, upon a written request from the owner, DHC may, for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP Contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. DHC will review and make a decision based on the circumstances and merit of each request.

DHC may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP Contract, or the redetermination of rent, if DHC determines it is necessary due to DHC budgetary constraints.

2. Exception Payment Standard and Utility Allowances Same as in the Tenant- Based Voucher Program

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the PBVP. HUD will not approve a different exception payment stand amount for use in the PBVP. Likewise, DHC will not establish or apply different utility allowance amounts for the PBVP.

17.8.G. REDETERMINATION OF RENT [24 CFR 983.302]

1. Rent Increase

If an owner wishes to request an increase in the rent to owner from DHC, it must be requested at least 60 days before the anniversary date of the HAP Contract and must include the new rent amount the owner is proposing. The request must be in writing and in the form and manner required by DHC. DHC may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBVP for special adjustments, e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs.

DHC will not approve, and the owner may not receive any increase of rent until and unless the owner has complied with requirements of the HAP Contract, including compliance with HQS or NSPIRE. The owner may not receive any retroactive increase of rent for any period of non-compliance.

2. Rent Decrease

If there is a decrease in the rent, as required in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent must be decreased regardless of whether the owner requested a rent adjustment. DHC has elected to not decrease rents below the Initial Term level except when the redetermination of rent to owner a result of is:

a. To correct errors in calculations in accordance with HUD requirements.
b. If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP Contract and a rent decrease is required; or
c. If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and tenant.

3. Notice of Rent Change

The rent is redetermined by written notice by DHC to the owner specifying the amount of the redetermined rent. DHC's notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP Contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the anniversary date of the HAP Contract. DHC will provide the owner with at least 30 days written notice of any change in the amount of rent.

4. DHC-Owned Units [24 CFR 983.301(g)]

For DHC-owned PBV units, the initial rent, and the annual redetermination of rent at the anniversary date of the HAP Contract will be determined by the independent entity approved by HUD. DHC must use the rent established by the independent entity. The independent entity must provide a copy of the determination of reasonable rent to DHC and the local HUD field office.

17.8.H. REASONABLE RENT [24 CFR 983.303]

1. Generally

At the time the initial rent is established and all times during the term of the HAP Contract, the rent for a contract unit may not exceed the reasonable rent for the unit as determined by DHC.

2. When Rent Reasonable Determinations are Required

DHC will redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occurs:

- There is a 5% or greater decrease in the published FMR in effect 60 days before the contract anniversary date for the unit sizes specified in the HAP Contract as compared with the FMR that was in effect one (1) year before the HAP Contract anniversary date.
- DHC approves a change in the allocation of responsibility for utilities between the owner and the tenant.
- The HAP Contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

3. How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DHC will consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services, maintenance, and utilities to be provided by the owner.

For each unit, a comparability analysis will use at least three (3) comparable units in the private unassisted market. This may include units in the premises or project that is receiving PBV assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by DHC.

The comparability analysis may be performed by DHC staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

4. Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, DHC may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17.8.I. EFFECTS OF OTHER SUBSIDY AND RENT CONTROL [24 CFR 983.304 AND 983.305]

1. Generally

In addition to the rent limits discussed in this chapter, other restrictions may limit the amount of rent paid for a PBV unit. In addition, certain types of subsidized housing are not eligible to receive PBV assistance.

2. Other Subsidy

At its discretion, DHC may reduce the initial rent because of other governmental subsidies, including grants and other subsidized financing. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program. Rent may not exceed any limitation required to comply with HUD subsidy layering requirements.

For units in any of the following types of federally subsidized projects, the rent may not exceed the subsidized rent (basic rent), or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project.

A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action.

- A Section 221(d)(3) below market interest rate (BMIR) project.
- A Section 515 project of the Rural Housing Service; or
- Any other type of federally subsidized project specified by HUD.

3. Rent Control

In addition to the rent limits set by PBVP regulations, the amount of rent may also be subject to rent control or other limits under local, state, or federal law.

17.8.J. OTHER FEES AND CHARGES [24 CFR 983.354]

1. Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner.

2. Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

17.8.K. OTHER SPECIAL CIRCUMSTANCES [24 CFR 5.66(F)]

As a means of providing increased security for tenants, PBV assistance may be provided to police officers and other security personnel who may not otherwise be eligible for housing assistance.

Owners must apply to the local HUD office for authorization to house over-income police officers and other security personnel in assisted units. The application must include:

- A statement demonstrating the need for increased security at the development.
- A description of the proposed gross rent for the unit; and
- Any special conditions for occupancy.

CHAPTER 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

18.1.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful an effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

18.1.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982.However, important parts of the tenant-based regulations do not apply to the project- based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy. Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis- Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated

Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing.
- For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
  - Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effective immediately.
  - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
  - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.
  - Notice PIH 2012-32, REV-2
  - REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)

- Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.

- RAD FAQs (http://www.radresource.net/search.cfm)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

18.1.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

PHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

See Exhibit 18-1 for information on projects to which the PHA has attached RAD PBV assistance.

18.1.D. RELOCATION REQUIREMENTS

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Any non-RAD PBV units located in the same project are also subject to the right to return.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development.
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
    - Other options identified
    - by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

18.1.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; NOTICE PIH 2012-32, REV-3]

RAD conversions are governed by the same civil rights authorities that govern HUD- assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the RAD Fair Housing, Civil Rights, and Relocation Notice [Notice PIH 2016-17] for more information.

PART II: PBV PROJECT SELECTION

18.2.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18.2.B. OWNERSHIP AND CONTROL [NOTICE PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a "single-purpose entity" that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA's related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent

or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.

- Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

> Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity.
>
> The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity(or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
>
> If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member.
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease.
- The PHA retains control over leasing the property and determining program eligibility.
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project.
- Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV 3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or

A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

18.2.C. PHA-OWNED UNITS [24 CFR 983.59; NOTICE PIH 2012-32, REV-3.FR NOTICE 1/18/17]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR983.59 must be conducted by an independent entity approved by HUD.

The definition of ownership or control provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of PHA-owned under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of ownership or control but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services.

The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

PHA Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will a HUD-approved independent entity.

18.2.D. SUBSIDY LAYERING REQUIREMENTS [NOTICE PIH 2012-32, REV-3]

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate

the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:

- Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA close- out reserve). Any funds not needed for public housing close-out costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

18.2.E. PBV PERCENTAGE LIMITATION [NOTICE PIH 2012-32, REV-3 AND NOTICE PIH 2023-19]

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6. There is no cap on the number of units that may receive PBV assistance in a project.

18.2.F. SITE SELECTION STANDARDS [NOTICE PIH 2012-32, REV-3; NOTICE PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18.2.G. ENVIRONMENTAL REVIEW [NOTICE PIH 2012-32, REV-3]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements.

Environmental documents must be submitted as part of the financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2012-32, REV-3.

PART III: DWELLING UNITS

18.3.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18.3.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential

Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

18.3.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part

1. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

18.3.D. INSPECTING UNITS

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with NSPIRE standards. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet NSPIRE standards by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, NSPIRE requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with NSPIRE requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with NSPIRE.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months (or once every 36 months for small rural PHAs) during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in

each building, to determine if the contract units and the premises are maintained in accordance with NSPIRE. Turnover inspections are not counted toward meeting this inspection requirement.

PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with INSPIRE.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

PHA Policy

The PHA will not rely on alternative inspection standards

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with NSPIRE, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections. The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an NSPIRE deficiency, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of NSPIRE standards.

In conducting PHA supervisory quality control inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH2017-21]

In the case of PHA-owned units, all required inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner

PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18.4.A. OVERVIEW [RAD PBV QUICK REFERENCE GUIDE 6/20]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18.4.B. HAP CONTRACT REQUIREMENTS

Contract Information [RAD PBV Quick Reference Guide 6/20; Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD- 52621). For closings on or after January 1,2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to PBV HAP Contract. The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [RADBlast! 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2012-32, REV-3]

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms

and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PIH 2019-23]

By statue, upon contact expiration, the agency administering the vouchers will offer, and the PHA will accept, of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance, or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for NSPIRE Deficiencies [24 CFR 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with NSPIRE If the PHA determines that a contract does not comply with NSPIRE standards, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

PHA Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance with NSPIRE in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8.2.G., Enforcing Owner Compliance.

18.4.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2019-23]

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to" float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

PHA Policy

The PHA will not float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

Reduction in HAP Contract Units [Notice PIH 2019-23]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units have been permitted.

18.4.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(E)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

18.4.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, they certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with NSPIRE standards;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

18.4.F. VACANCY PAYMENTS [24 CFR 983.352(B)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy

The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18.5.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

18.5.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [NOTICE PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households 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. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23, (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.

Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non- RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD units located in the same project are also subject to the right to return.

For the RAD PBV program, in-place family means a family who lived in a pre- conversion property at the time assistance was converted from public housing to PBV under RAD.

18.5.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(A) AND (B)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, meet asset limitation requirements, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)], and meet asset limitation requirements. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

PHA Policy

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

18.5.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(C); NOTICE PIH 2019-23]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

PHA Policy.

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has waiting lists for the following RAD PBV projects:

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E."

18.5.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(C)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]

At least 75 percent of the families admitted to the PHA's tenant-based and project- based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

PHA Policy

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

18.5.F. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

18.5.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income

families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

18.5.H. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

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

PART VI: OCCUPANCY

18.6.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18.6.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2091-23]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services;
- services;
- For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease; and
- The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of Notice PIH 2012-32, REV-2.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f); RAD PBV Quick Reference Guide (6/20

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which may not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent;
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply.

These provisions apply to non-RAD PBV units located in the project as well."

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23]

RAD PBV Quick Reference Guide 6/20] Pre-Conversion Residents The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

- The family's TTP minus the utility allowance (subject to any required phase-in); or
- The Zero HAP Rent Cap, which is the lower of: -110 percent of the applicable FMR minus the utility allowance; or
- rent under the LIHTC program "the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements."

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family in such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with

the NSPIRE standards, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

"HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements. After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted. Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request".

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

PHA Policy

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180- day period.

Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (6/20)]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

PHA Policy

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

18.6.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [NOTICE PIH 2019-23]

Current PH FSS participants will continue participate in the PHA's FSS program to and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA), to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants. once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS– SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements.

18.6.D. RESIDENT PARTICIPATION AND FUNDING [NOTICE PIH 2019-23]

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

18.6.E. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the pro Any non-RAD PBV units located in the same project are also subject to these requirements.

Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project
- PBV assistance in another project

- Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the PHA offers a family another form of assistance that is not a tenant- based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA.

Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]

Family's Right to Choice Mobility Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods. PHA Policy To ensure that residents are fully aware of and understand their rights under choice mobility, the PHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification. Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP)

requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

Moving with Continued Assistance under Choice Mobility

If the family wishes to move with continued tenant-based assistance under choice mobility," the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance. Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

PHA Policy:

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy.

This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant- based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

The PHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher. Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the PHA issues a choice mobility voucher, the PHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher."

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant- based voucher is available.

PHA Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list. If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program.

Such a decision will be made by the PHA based on the availability of tenant- based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant- based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

18.6.F. REEXAMINATIONS [PBV QUICK REFERENCE GUIDE (6/20]

A family living in a unit converted from public housing to RAD PBV may retain its

certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18.6.G. EARNED INCOME DISALLOWANCE [NOTICE PIH 2019-23]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. 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. Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in

section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

18.6.H. RESIDENTS' PROCEDURAL RIGHTS [NOTICE PIH 2019-23]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV PBV and to Non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

18.6.I. INFORMAL REVIEWS AND HEARINGS [NOTICE PIH 2019-23]

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v)"(See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(vi), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

PART VII: DETERMINING CONTRACT RENT

18.7.A. INITIAL CONTRACT RENTS [NOTICE PIH 2019-23]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
- The rent requested by the owner"

18.7.B. ADJUSTING CONTRACT RENTS [NOTICE PIH 2012-32, REV-3.

PBV Quick Reference Guide "6/20; PHA Asset Repositioning "How to Apply OCAF for RAD PBV" Webinar] RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD's operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service," subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do

not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, (as determined by the PHA that administers the contract or the independent entity, as applicable), with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the Federal Register; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent he PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required. Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps."

PHA Policy

The owner will request a contract rent adjustment from the PHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The "independent entity will notify the PHA who administers the contract in writing of the results of its review of the rent adjustment request. The PHA who administers the

contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the PHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

18.7.C. UTILITY ALLOWANCES [NOTICE PIH 2019-23.PBV QUICK REFERENCE GUIDE (6/20)]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion.

The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A After conversion, the PHA that administers the contract must maintain the utility allowance schedule. The PHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. 982.517, respectively, or the PHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04. Each family transitions to the new utility allowance at their first recertification following conversion. PHA Policy The PHA will use the HCV utility allowance schedule for the RAD PBV developments.

18.7.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that

affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

PART VIII: PAYMENTS TO OWNER

18.8.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

18.8.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge).
- The owner certifies that the vacancy is not the fault of the owner, and that the unit was vacant during the period for which payment is claimed.
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

18.8.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy

The PHA will make utility reimbursements directly to the family.

18.8.D. PHASE-IN OF TENANT RENT INCREASES [NOTICE PIH 2019-23]; PHA ASSET REPOSITIONING "PHASE-IN OF TENANT RENTS WEBINAR]

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase a tenant's by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of total tenant payment (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions. PHA Policy The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or $25 purely as a result of the conversion as follows: Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.) Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently"

PBV TTP Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

"If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends. The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements."

18.8.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and

supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises

18.8.F. TENANT RENT TO OWNER [24 CFR 983.353; NOTICE PIH 2019-23]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Initial Certifications [Notice PIH 2019-23]

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy

The PHA will make utility reimbursements directly to the family.

18.8.G. PHASE-IN OF TENANT RENT INCREASES [NOTICE PIH 2019-23; PHA ASSET REPOSITIONING "PHASE-IN OF TENANT RENTS" WEBINAR]

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of total tenant payment (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

PHA Policy

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or $25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

18.8.H. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

EXHIBIT 18-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: [Enter the date on which this form was completed]

DEVELOPMENT INFORMATION

Development Name: [Insert name of PBV development]

Address: [Insert full address of PBV development]

Owner Information: [Insert PBV development owner name and contact information. If development is PHA-owned, enter "PHA-owned."]

Property Management Company: [Insert property management company name and contact information, or enter "None"]

PHA-Owned: [Enter "Yes" or "No." If yes, enter name of independent entity.]

Mixed-Finance Development: [Enter "Yes" or "No." If yes, list other types of funding and units to which other funding applies.]

HAP CONTRACT

Closing Date: [Enter closing date of RAD conversion]

List Which RAD Notice Applies to the Project: [Enter "PIH 2012-32, REV-2," "PIH 2012-32, REV 3," or "PIH 2019-23"]

Effective Date of Contract: [Enter start date of HAP contract]

HOTMA Requirements: [If HAP contract was signed prior to April 18, 2017, enter "Pre-HOTMA." If HAP contract was signed on or after April 18, 2017, enter "Post-HOTMA."]

Term of HAP Contract: [Enter term from HAP contract]

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

¤	0·BR¤	1·BR¤	2·BR¤	3·BR¤	4·BR¤	5·BR¤	Total·¤
#·of·Units¤	¤	¤	¤	¤	¤	¤	¤
Initial·Contract·Rent¤	¶ $¤	¶ $¤	¶ $¤	¶ $¤	¶ $¤	¶ $¤	¤

Unit Designation: [Enter "Fixed" or "Floating"]

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter "None"]

Target Population: [Describe targeted population in accordance with HAP contract or enter "None"]

Excepted Units (Notice PIH 2012-32, REV-2 Developments Only): [Identify excepted unit types below or enter "None"]

Supportive Services: [Enter "Yes, see Exhibit D of HAP contract" or enter "No"]

Elderly Units: [Enter "Yes" or "No." If yes, identify which units are elderly units.]

Disabled Units [Enter "Yes" or "No." If yes, identify which units are for persons with disabilities.]

WAITING LIST AND SELECTION

Waiting List Type: [Enter "Site-based waiting list," "Combined with HCV," "Waiting list for entire PBV program," or "Merged with another assisted housing program"]

Preferences: [Enter "Same as HCV; see Chapter 4" or describe preferences offered. If different from HCV, note in Section 18.1.C. of this policy.]

Preference Verification: [Enter "Same as HCV; see Chapter 7" or describe for each preference listed above. If different from HCV, note in Section 18.1.C. of this policy.]

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed-finance developments, other income limits may also apply.) [Enter "Same as HCV; see Chapter 3" or clearly describe]

OCCUPANCY

Subsidy Standards: [Enter "Same as HCV; see Chapter 5" or describe. If different from HCV, note in Section 18.1.C. of this policy.]

Utilities: [Enter in accordance with HAP contract Exhibit C]

Vacancy Payments: [Enter in accordance with HAP contract Part 1, e, 2 and Section 18-IV.F. within this chapter]

CHAPTER 19

SPECIAL PURPOSE VOUCHERS

INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Mainstream

DHC will administer the following types of special purpose vouchers:

- Emergency Housing Vouchers (EHV)/ ARRPA

The DHC does not administer the following voucher programs:

- Foster Youth Independence (FYI)
- Near Elderly Disabled (NED)
- VASH
- Stability Vouchers

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Mainstream voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

PART I: FAMILY UNIFICATION PROGRAM (FUP)

19.1.A. PROGRAM OVERVIEW [FACT SHEET, HOUSING CHOICE VOUCHER PROGRAM FAMILY UNIFICATION PROGRAM (FUP)]

Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have 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 at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

Assigning Vouchers [FUP FAQs]

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

PHA Policy

The PHA has not designated any specific number or percentage of FUP vouchers for youths or families. The PHA will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

19.1.B. PUBLIC CHILD WELFARE AGENCY (PCWA)

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 18-I.C. and 18-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

PHA Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;

- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

PHA Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

19.1.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure

- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability
- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define imminent placement, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

19.1.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- 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;

  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - At risk of being homeless is fully defined at 24 CFR 576.2.
    - This includes a person that 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).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- 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 a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

19.1.E. ASSISTANCE PERIOD [FR NOTICE 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

  PHA Policy
  The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

  PHA Policy
  The PHA will define regular and active participation in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

PHA Policy
The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth.

A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

  PHA Policy

  The PHA will use the definitions of recognized postsecondary credential and secondary school diploma or its recognized equivalent under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a recognized postsecondary credential as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a secondary school diploma or its recognized equivalent as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a proprietary institution of higher education or a postsecondary vocational institution under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

PHA Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term career pathway means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an apprenticeship, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual's education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at their second regular reexamination of the education, workforce development, and employment requirements described above.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to a FUP youth.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60- month mark.

No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexamination date. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

- To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.
- To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.
  - Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

19.1.F. REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a

completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

PHA Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

Waiting List Selection

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

19.1.G. PHA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

PHA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

19.1.H. LEASE UP [FR NOTICE 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;

- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: NSPIRE inspections, determination of rent reasonableness, etc.).

19.1.I. TERMINATION OF ASSISTANCE

General Requirements

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

PHA Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

FUP Youth Vouchers

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

19.1.J. FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

19.1.K. PROJECT-BASING FUP VOUCHERS [NOTICE PIH 2017-21; FR NOTICE 1/24/22]

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

PHA Policy

The PHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

PART II: MAINSTREAM VOUCHER PROGRAM

19.2.A. PROGRAM OVERVIEW [NOTICE PIH 2020-01]

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority

to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

19.2.B. ELIGIBLE POPULATION [NOTICE PIH 2020-01 AND NOTICE PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

19.2.C. PARTNERSHIP AND SUPPORTIVE SERVICES [NOTICE PIH 2020-01]

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

19.2.D. WAITING LIST ADMINISTRATION

General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

PHA Policy

The PHA claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The PHA will offer the following preference:

19.2.E. PORTABILITY [NOTICE PIH 2020-01 AND MAINSTREAM VOUCHER BASICS WEBINAR, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

19.2.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 MAINSTREAM VOUCHER NOFA Q&A]

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.