

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

HACA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

HACA Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, 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.

HACA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the PHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

HACA Policy

The PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The PHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(I)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

HACA Policy

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

HACA Policy

The PHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance
[24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

HACA Policy

The PHA **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally assisted housing in the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the PHA.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

HACA Policy

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HACA Policy

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs.

In the event that the PHA decides to stop issuing vouchers as a result of a funding shortfall, and the PHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the PHA resumes issuing vouchers, the PHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

The PHA will terminate HAP contracts starting with those families receiving the smallest amount of assistance first.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

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

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

HACA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon PHA request.

Repayment of Family Debts

HACA Policy

If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

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

HACA Policy

The PHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

HACA Policy

The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

- Any statements made by witnesses or the participant not included in the police report

- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

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

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The PHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

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

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

HACA Policy

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

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. 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.)

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 they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault 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)].

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)].

HACA 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 they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

HACA 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.

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.

HACA 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.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

HACA Policy

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA 2013 expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

HACA Policy

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

HACA Policy

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

HACA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

HACA Policy

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, 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. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

HACA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.

- 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 the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

HACA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

HACA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

HACA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- 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).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- 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. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- 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 the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

Owners play a major 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 program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’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 the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6; HCV Landlord Strategy Guidebook for PHAs]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

If the PHA will be conducting outreach events, the PHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. PHAs must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

HACA Policy

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- 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

- Participating 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

- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

HACA Policy

All PHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The PHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The PHA will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated PHA contact person.

Coordinating inspection and leasing activities between the PHA, the owner, and the family.

Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.

Providing other written information about how the program operates through a landlord handbook, including answers to frequently asked questions.

Contacting owners via emails or texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

MTW Incentives

HACA Policy

As a Moving to Work (MTW) agency, Asheville Housing has been approved for a waiver authorizing a series of additional payments to individual landlords outlined below (MTW Activity 2022-4). These payments are paid from Asheville Housing's HAP funding, but are not to be considered payment for rent or substitution for any tenant-incurred fees or charges allowable under the lease. The Administrative Plan will be updated to reflect these landlord incentive policies.

The incentives and their terms are as follows:

- 1) Vacancy Loss – Following the end of a family's lease and HAP Contract, a landlord may offer the unit for lease to another qualified voucher holder and request a vacancy payment for the time between the end of the former lease and the beginning of the next.
 - a. The vacancy payment will be equal to no more than one month of the new contract rent and will be prorated if the vacancy period is less than one month.

- b. The vacancy loss payment will be paid to the landlord after the next HAP contract is executed between the owner and Asheville Housing.
- 2) Damage Claims – Following the end of a tenant’s lease and HAP Contract, the landlord may submit damage claims for reimbursement of damages caused by the former tenant that are beyond normal wear and tear.
- a. The amount of damages claimed may not exceed the cost of repairs or two months contract rent, whichever is lower.
 - b. The family’s security deposit must first be used to cover damages. We will provide up to two months of contract rent minus the security deposit to cover the documented repairs.
 - c. The damage claim payment will be paid to the landlord when the next HAP contract is executed between the owner and Asheville Housing.
 - d. To qualify, landlords must contact staff for an inspection of the unit prior to beginning repairs. Following completion of the repairs, they must request a second inspection to verify repairs. The second inspection may coincide with the initial inspection for the new HAP Contract.
 - e. The landlord must provide thorough documentation of actual costs for the repairs via invoices and receipts for services and materials.
- 3) Landlord Incentives – Incentives will be paid to new landlords renting units on the program for the first time, and existing landlords executing HAP contracts for units that have not previously been rented to voucher holders within the last two years.
- a. Each incentive payment will be equal to one month of the contract rent.
 - b. The incentive payment will be paid to the landlord after the HAP contract is executed between the owner and Asheville Housing.
 - c. A landlord may receive either the new landlord incentive or new unit incentive, but may not receive both for a single unit lease-up.
 - d. Each landlord may receive no more than five incentive payments in a calendar year, except that there is no annual limit on the number incentive payments a landlord may receive for units that are located in high opportunity areas, defined as census tracts with a poverty rate of 20% or less.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

HACA Policy

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 the PHA. The PHA 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 unassisted tenant. The PHA 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 (RTA, 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 program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the 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 program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the proposed rent for 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, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share 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 program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

HACA Policy

In considering whether to request a conflict of interest waiver from HUD, the PHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA 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 [HCV GB p. 11-4].

HACA Policy

The PHA will refuse to approve a request for tenancy if the PHA becomes aware that any of the following are true:

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;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity 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: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

The owner has a history or practice of renting units that fail to meet state or local housing codes; or

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

HACA Policy

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the 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 use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.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 contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have 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. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

HACA Policy

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the 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 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
- 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

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. 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-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated 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. The PHA must 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 the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA 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 rent to 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 the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

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 [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, 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; 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 term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The PHA 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 calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The PHA must continue making housing assistance 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 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, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

HACA Policy

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA 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 the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA 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. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

HACA Policy

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA 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 contract, the PHA will consider all of 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-II.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 housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

HACA Policy

The PHA 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 size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [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)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

HACA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to the PHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

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 the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

HACA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The PHA 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 10 business days of receiving the owner's request, the PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the PHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

- The effective date of the HAP contract assignment;

- A written agreement to comply with the terms of the HAP contract; and

- A certification 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, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.

13-II.G. FORECLOSURE [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

PHA Policy

If a property is in foreclosure, the PHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The PHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including 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 still effective by operation of law.

The PHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the PHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, the PHA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The PHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA 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 PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

HACA Policy

To ensure that the PHA’s HCV program is administered according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The PHA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

At every regular reexamination, PHA staff will explain any changes in HUD regulations or PHA policy that affect program participants.

The PHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The PHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The PHA will provide each PHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

HACA Policy

In addition to the SEMAP quality control requirements, the PHA will employ a variety of methods to detect errors and program abuse.

The PHA routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the PHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditures to detect possible unreported income.

The PHA may request, at its own expense, a credit report to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

HACA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HACA Policy

The PHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

HACA Policy

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

HACA Policy

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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 that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HACA Policy

In the case of family-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) 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, the PHA 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.

Notice and Appeals

HACA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 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 the PHA 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 (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

HACA Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to 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 three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this 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 the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

HACA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The PHA will generally, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

HACA Policy

The PHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [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)].

HACA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA 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 the PHA 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 program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

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 housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

HACA Policy

In cases where the owner has received excess subsidy, the PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [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:

HACA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the PHA

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 housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA

Residing in the unit with an assisted family

Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations 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.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

HACA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

- 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
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the PHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of PHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

HACA Policy

When the PHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M; New HCV GB, *Special Housing Types*]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

HACA Policy

HACA adopts Parts 1 through VII below and allows use of all listed housing types.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601]. A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types*, p. 3].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB,
Special Housing Types, p. 4]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing.”

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609; Form HUD-52641; New HCV GB,
Special Housing Types, p. 6]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614; Form HUD-52641; New HCV GB,
Special Housing Types, p. 8]

15-III.A. OVERVIEW

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home."

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero- or one-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the family unit size to the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back-ups, sewage hazards
 - Mud slides
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation, and
 - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618; Form HUD-52641; Notice PIH 2021-05;
New HCV GB, *Special Housing Types*, p. 11]

15-IV.A. OVERVIEW

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experience some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

HACA Policy

The PHA will provide information to families regarding the shared housing option at briefing but will not provide any listings or information of housing matching services in the community.

PHAs should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.
- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

HACA Policy

The PHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing.”

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

Example: Family holds a two-bedroom voucher.
Shared housing unit size: bedrooms available to assisted family = 2
Total bedrooms in the unit: 3
2 Bedrooms for assisted family
÷ 3 Bedrooms in the unit
.667 pro-rata share
2 BR payment standard: \$1200
3 BR payment standard: \$1695 $\$1695 \times .667$ (pro-rata share) = \$1131 \$1131 is
lower than the \$1200 payment standard for the 2 BR family unit size \$1131 is
the payment standard used to calculate the HAP

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The prorata share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA may consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619; New HCV GB, *Special Housing Types*, p. 14]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; New HCV GB,
Special Housing Types, p. 15;]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways.

- (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.
- (2) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
- (3) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL REQUIREMENTS FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and at least annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP
[24 CFR 982.625 through 982.643]

15-VII.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 may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

HACA Policy

The PHA requires that financing for purchase of a home under its Section 8 homeownership program complies with secondary mortgage market underwriting requirements; or complies with generally accepted private sector underwriting standards.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

HACA Policy

The PHA will offer the monthly homeownership assistance payments to qualified families.

The PHA may choose not to offer homeownership assistance. However, the PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

If the PHA offers the homeownership option, participation by the family is optional. However, the family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

HACA Policy

The PHA will not establish a higher minimum income standard for disabled and/or non-disabled families.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- 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 (the term 'full-time employment' means 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.

HACA Policy

Families will be considered “continuously employed” if the break in employment does not exceed two months.

The PHA will count self-employment in a business when determining whether the family meets the employment requirement.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option

- Except for cooperative members who have acquired cooperative membership shares prior to 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 prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

HACA Policy

The PHA will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

The family has had no family-caused violations of HUD's Housing Quality Standards within the past year.

The family owes no money to the PHA.

The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

HACA Policy

The PHA will administer up to 25 new homeownership units per year. The PHA may exceed the number of units planned per year if capacity is available to handle more or if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, the PHA may reduce the number of homeownership units offered in subsequent years.

Families who have been participating in an economic self-sufficiency program for at least one year, or have graduated from such a program, will be given preference over other families. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to the PHA.

All families must meet eligibility requirements as defined in Section 15-VII.B. of this plan.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must 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 public housing or Indian housing 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;
 - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- 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 the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- 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.
- Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for that unit until:
 1. Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and
 2. Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.

- For PHA-owned units all of the following conditions must be satisfied:
 - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
 - The unit is not ineligible housing;
 - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

**15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE
[24 CFR 982.629]**

It is the family’s responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family’s name on the waiting list for a voucher.

HACA Policy

After the family completes homeownership counseling and all other necessary preparatory steps and is ready to purchase a home, the family will be allowed 120 days to identify a unit and submit a sales contract to the PHA for review. The family will be allowed an additional 120 days to close on the home. PHAs may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case basis. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

All requests for extensions must be submitted in writing to the PHA prior to the expiration of the period for which the extension is being requested. The PHA will approve or disapprove the extension request within 10 business days. The family will be notified of the PHA’s decision in writing.

The family will be required to report their progress on locating and purchasing a home to the PHA 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 issued a voucher to lease a unit.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- 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 the PHA 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.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

HACA Policy

If required by the PHA on a case-by-case basis, families must attend and complete post-purchase ongoing homeownership counseling.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

HACA Policy

When the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, the PHA will conduct a housing quality standards (HQS) inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

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 must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

HACA Policy

The family must hire an independent professional inspector, whose report must be submitted to the PHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a PHA employee or contractor.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

HACA Policy

The PHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may advise the family not to purchase the home. The family may choose to purchase the home in spite of the PHA's advice.

While the family is receiving homeownership assistance, the PHA will conduct an HQS inspection every other year.

Contract of Sale

Before commencement of monthly homeownership assistance 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 the PHA 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 that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
 - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and
 - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

HACA Policy

As a check against predatory lending, the PHA will review the financing of each purchase transaction, including estimated closing costs. The PHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. The PHA also will not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, the PHA will rely on the lenders to determine that the loan will be affordable to program participants.

The mortgage the family applies for must require a minimum down payment of at least 3% of the sales price with 1% of the down payment coming from the purchaser's personal funds. The PHA will not require that the family have any more than the minimum of 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The PHA will approve a family's request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

15-VII.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, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

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 the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- 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 option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

HACA Policy

Any inspection the PHA conducts after the initial inspection will be done on an advisory basis. The family will be encouraged to make the repairs, but will not be required to do so as a condition of ongoing assistance.

15-VII.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 (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above 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 different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher 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, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) must include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the PHA 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;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

HACA Policy

The PHA will use the following amounts for homeownership expenses:

Monthly homeownership payment. This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable.

Utility allowance. The PHA's utility allowance for the unit, based on the current HCV utility allowance schedule.

Monthly maintenance/major repair/replacement allowance. A single monthly maintenance/repair/replacement allowance will be provided at \$120 per month.

Monthly co-op/condominium assessments. If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

Monthly principal and interest on debt for improvements. Principal and interest for major home repair, replacements, or improvements, if applicable.

Land lease payments. Land lease payments where a family does not own fee title to the real property on which the home is located.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

HACA Policy

The PHA's housing assistance payment will be paid directly to the family. It will be the family's responsibility to make the entire payment to the lender. The PHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

15-VIII. 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 PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance. In this case, the PHA must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves based on insufficient funding.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured 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.

HACA Policy

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with PHA policies in Chapter 10.

The PHA will not require additional counseling of any families who move with continued assistance.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA 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).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

HACA Policy

In order for the PHA to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following the PHA's last housing assistance payment on behalf of the family, the family must submit a written request to the PHA at least 30 days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. The PHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will the PHA postpone termination beyond an additional 90 days.

The PHA 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.

HACA Policy

The PHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA 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 Section 12-II.F.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA'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 the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA 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: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies 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.

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, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

HACA Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of the PHA’s Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA 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).

HACA Policy

Copies of the payment standard and utility allowance schedules are available for review in the PHA's offices during normal business hours.

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.

The PHA 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.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA 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.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA 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.

HACA Policy (MTW)

Using its MTW flexibility, as documented in the approved 2023 MTW Supplement to the PHA Plan, Asheville Housing will establish an expanded "basic range" of between 80% and 120% of the Fair Market Rent for standard tenant-based rentals in its Housing Choice

Voucher (HCV) Program. This waiver will serve the statutory goal of increasing housing choice by making HCV families more competitive on the private rental market.

To maximize that competitiveness, Asheville Housing expects to establish payment standards at or near the high end (120%) of the expanded basic range. If necessary to achieve an appropriate leasing success rate, the PHA may also seek Field Office approval to continue using the 50th percentile rents rather than the FMR as the baseline for establishing the basic range.

Hardship Policy – Payment Standards

Hardship Due to Reduced Payment Standard: Because Asheville Housing will be setting payment standards at or near the high end of the approved range and does not as a matter of policy reduce established housing assistance payments downward as a result of a subsequent reduction in the payment standard, the PHA does not anticipate many hardships. However, if payment standards are reduced in the future and that reduction results in a family rent burden exceeding 40% of adjusted income, the family may request a hardship.

- i. *Eligibility:* A family will be eligible for this hardship adjustment if a reduction in the payment standard causes a rent burden (total Family Share divided by current monthly adjusted income) that exceeds 40%.
- ii. *Remedy:* The payment standard reduction will be limited to an amount that results in a total Family Share of 40% of monthly adjusted income.
- iii. *Duration:* The hardship adjustment will remain in effect until the family's next interim or annual recertification, at which time it will be reassessed based on family composition and income at that time.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

HACA Policy

The PHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the MTW-modified basic range of 80 to 120% the PHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The PHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The PHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The PHA may 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.

Effective dates of changes to payment standard amounts will be determined at time of update. The PHA will always ensure the payment standards will be within the basic range

Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01, FR Notice 9/27/21]

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

PHA Policy

The PHA will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

HACA Policy

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, the PHA must determine that:

There is a shortage of affordable units that would be appropriate for the family;

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must 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;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA 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, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

The PHA 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 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

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, the PHA 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. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

HACA Policy

The PHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA 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-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

16-III.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 [*Federal Register* 60, no. 127 (3 July 1995): 34690].

Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

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

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

HACA Policy

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA 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.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

HACA Policy

A request for an informal review must be made in writing and delivered to the PHA 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 the PHA's denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

Remote Informal Reviews [Notice PIH 2020-32]

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

PHA Policy

The PHA 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, the PHA 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 child care 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.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

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

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

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

Conducting Remote Informal Reviews

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

HACA Policy

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their 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-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

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

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy 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 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

HACA Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation (see Chapter 2).

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

PHA Policy

The PHA 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, the PHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care 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. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

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

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

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Informal Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and 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 the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

HACA Policy

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the PHA.

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 the PHA'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.

To whom the hearing request should be addressed.

A copy of the PHA's hearing procedures.

That the family may request a remote informal hearing.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

HACA Policy

A request for an informal hearing must be made in writing and delivered to the PHA 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 the PHA's decision or notice to terminate assistance.

The PHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote informal hearing;

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

PHA Policy

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing. The PHA will mail 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 the PHA representative and retained by the PHA.

Documents will be shared electronically whenever possible.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

HACA Policy

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, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA 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.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

HACA Policy

The PHA has designated the following to serve as hearing officers:

Senior Staff Members of HACA (i.e Executive Director, Directors of Property Management, Director of Assisted Housing)

Attendance at the Informal Hearing

HACA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

HACA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

HACA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the PHA (or the family, if required in a remote hearing) fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Procedures for Rehearing or Further Hearing

HACA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

HACA Policy

In rendering a decision, the hearing officer will consider the following matters:

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA'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 the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their 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 shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Issuance of Decision [24 CFR 982.555(e)(6)]

A copy of the hearing must be furnished promptly to the family.

HACA Policy

The hearing officer will mail a "Notice of Hearing Decision" to the PHA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file.

Effect of Final Decision [24 CFR 982.555(f)]

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

HACA Policy

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will mail a "Notice of Final Decision" to the PHA and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail. A copy of this notice will be maintained in the PHA's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. 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 prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

HACA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

HACA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

HACA Policy

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 PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

HACA Policy

The PHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA, the PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii)]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

HACA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

HACA Policy

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

When an owner refuses to repay monies owed to the PHA, the PHA may 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

Family Debts to the PHA

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

HACA Policy

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into an Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA must terminate assistance [Notice PIH 2018-18].

PHA Policy

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA 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

Repayment Agreement [24 CFR 792.103]

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

General Repayment Agreement Guidelines for Families

Down Payment Requirement

HACA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HACA Policy

The PHA has established the following thresholds for repayment of debts:

Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

The amount owed by the family to the PHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

HACA Policy

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

Due Dates

HACA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

HACA Policy

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 the PHA, the PHA 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 agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 12.

No Offer of Repayment Agreement

HACA Policy

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreement Terms

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

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

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
<p>Indicator 1: Selection from the waiting list Maximum Score: 15</p> <ul style="list-style-type: none">• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants from the waiting list.• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control samples.
<p>Indicator 2: Rent reasonableness Maximum Score: 20</p> <ul style="list-style-type: none">• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
<p>Indicator 3: Determination of adjusted income Maximum Score: 20</p> <ul style="list-style-type: none">• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
<p>Indicator 4: Utility allowance schedule Maximum Score: 5</p> <ul style="list-style-type: none">• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections**Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement**Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities**Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards**Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations**Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are less than two months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations**Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections**Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections**Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up**Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders**Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator**Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on 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 PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

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)].

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, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HACA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

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 the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

HACA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with elevated 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 the PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

HACA Policy

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA 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 elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA 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, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA 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.

HACA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

HACA Policy

The PHA 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 the PHA'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, the PHA 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 funding reserves, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

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.

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-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- 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 of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
 - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- 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.

16-IX.C. 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.

HACA 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

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.

HACA 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.

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.

HACA 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-IX.D. 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].

HACA 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.

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.

HACA 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.

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.

HACA 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.

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-IX.E. 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.

HACA 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**

Housing Authority of the City of Asheville

Notice of Occupancy Rights under the Violence Against Women Act¹

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.

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.

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.

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

Housing Authority of the City of Asheville

**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

³Despite 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.

⁴Housing 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.

also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

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

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) _____

MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS
HOUSING AUTHORITY OF THE CITY OF ASHEVILLE
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 and stalking.

Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking 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 Asheville Housing Authority's 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, or stalking. 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, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, 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, or stalking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

a. Nothing in the VAWA Final Rule 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, or stalking; or
- 2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, 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 the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) 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, or Stalking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, 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, or stalking, 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, or stalking 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, or stalking 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, or stalking, 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, or stalking, 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 Final Rule 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, or stalking 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, or stalking at eviction or termination proceedings.

Moves

A victim of domestic violence, dating violence, sexual assault, or stalking 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, or stalking 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

The VAWA Final Rule 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, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule 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, or stalking, 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

Helpmate has extensive relationships with local service providers. **Helpmate** 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 violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (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

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine 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 Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

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: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: 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 VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

Part X: Rental Assistance Demonstration (RAD) Program. HACA is participating in the RAD Program and the provisions specifically applicable to RAD are set forth in this part. Because of rules specific to RAD, to the extent that there is a conflict between other parts of this Chapter and Part X, the provisions of Part X will govern.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its 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 [42 U.S.C. 1437f(o)(13)].

HACA Policy

The PHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

See Exhibit 17-1 for information on projects to which the PHA has attached PBV assistance.

PBV 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, the PHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the PHA 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, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units 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 units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that 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.
- Are specifically made available to house families that are comprised of or include a veteran.
 - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project-basing FUPY vouchers.

HACA Policy

The PHA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

HACA Policy

The PHA has converted all of its former public housing units to RAD PBV. All of those units are covered by this provision and excluded from the 20 (and 30) percent limitation.

17-I.B. 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 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.

HACA 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 PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21; 24 CFR 983.51(b)]

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one of the two processes above.

HACA Policy

The PHA does not have any remaining public housing units to which this provision would apply.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACA Policy

PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

- **Citizen Times**
- **Urban News of Asheville**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its website.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units

The PHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

- **Citizen Times**
- **Urban News of Asheville**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The PHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The PHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

- **Citizen Times**
- **Urban News of Asheville**

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, the PHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The PHA will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these 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.

HACA Policy

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. If the proposal for PHA-owned or controlled housing is selected, the PHA will ask the City of Asheville or the HUD field office to review the PHA selection process prior to final selection. HACA has received MTW waiver authority to perform rent determinations and inspections of its own units.

The PHA may only 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 independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

PHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACA Policy

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 2/28/20]

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 2/28/20 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

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-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

As of April 18, 2017, units are not counted against the 25 percent 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
 - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY, see Chapter 19.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

Supportive Services

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

HACA Policy

The PHA will develop, or seek development partners for, PBV housing that exceeds the 25% project cap for occupancy by families in need of services. This may include low-income families generally, disabled families, homeless families or families in need of particular supportive services. Families will not be required to accept and receive supportive services for the exception to apply to the unit, although they will be required to be eligible to receive supportive services.. The following types of services may be provided to meet the exception depending on the needs of the family:

Housing support services for families who have experienced homelessness or domestic violence;

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family self-sufficiency, budgeting, or homeownership counseling;

Child care or preschool services;

Parenting skills;

Computer labs

Work skills development and job training;

Meal service adequate to meet nutritional needs;

Housekeeping aid;

Personal assistance;

Transportation services;

Health-related services;

Case management;

Child care;

Educational and employment services;

Job training;

Counseling; or

Other services designed to help the recipient live in the community as independently as possible.

The PHA may also develop, or seek development partners for, PBV housing that exceeds the 25% project cap if located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates.

Based on the many available opportunities for low-income elderly residents in our community, the PHA will generally not consider PBV proposals for development of housing that is exclusively for elderly families.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

HACA Policy

The PHA's Rental Assistance Demonstration (RAD) PBV developments are exempt from the project cap, consistent with the applicable RAD Notice.

Promoting Partially Assisted Projects [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 units or 25 percent of units.

HACA Policy:

The PHA will provide assistance for excepted units subject to the requirements above. Beyond that, the PHA will not impose any further cap on the number of PBV units assisted per building.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACA Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 25 percent or less.

However, the PHA will grant exceptions to the 25 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 25 percent, 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 five years; or

- A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA may 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 the 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.

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.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program 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.). The PHA 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.

In the case of existing housing, the responsible entity that is responsible for the 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.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, 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.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, 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, and 40 CFR 745.227, apply to the PBV program.

17-III.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. 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)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

Turnover Inspections [24 CFR 983.103(c)]

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 HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months 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 HQS. Turnover inspections are not counted toward meeting this inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

PHA Policy

The PHA will inspect at least once every 24 months 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 HQS.

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.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS 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 HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS 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)]

In the case of PHA-owned units, the inspections must be performed by an independent entity 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 , including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

HACA Policy (MTW)

As a Moving to Work (MTW) Agency, Asheville Housing has been approved for a waiver of the third-party inspection requirement for PHA-owned units (MTW Activity 2022-5). Asheville Housing will use its own trained employees in the Housing Choice Voucher Program to perform regular and interim HQS Inspections of PBV units that Asheville Housing owns and manages. The following quality control measures will apply:

This provision will in no way alter any aspect of HQS Inspection requirements as pertains to frequency of inspections, performance requirements, acceptability criteria, or certification standards for the individual inspectors completing the assessments as defined by HUD. inspectors will report directly to the HCV Director and will in no way be under the supervision or direction of property management staff or leadership.

To ensure objective analysis in the completion of the HQS Inspections, the PBV units will be folded into the existing quality control metrics currently utilized for non-PBV HQS inspections. This will include an auditing of a minimum sample of units completed within a three-month window following the Inspection. These audits will be conducted by a staff member certified in HQS Inspections, including but not limited to the HCV Director or Assistant Director, a senior inspector, former inspector, or any other sufficiently qualified agency employee.

The table below shows the standard minimum number of quality control inspections to be completed based on the number of units under contract at the end of the agency's fiscal year. **For PBV units owned by Asheville Housing, quality control inspections will be performed at twice the standard rates shown below.**

Number of Units	Minimum number of audits to be completed
50 or fewer	5
51-600	5 plus 1 for each 50 (or part of 50) over 50
601-2000	16 plus 1 for each 100 (or part of 100) over 600
Over 2000	30 plus 1 for each 200 (or part of 200) over 2000

Families who request an interim inspection will be provided one. Requests should be made in writing either to the family's assigned Housing Support Specialist or to the Inspection Department directly, and should include a description of any known defects.

HQS inspection standards found at 24 CFR 982.401 will not be altered. At HUD request, Asheville Housing will obtain the services of a third-party entity to determine if PHA-owned units pass HQS.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA 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(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- 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 the PHA, 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.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

HACA Policy

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

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 HUD-prescribed form of 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. The PHA must monitor compliance with labor standards.

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.

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.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS 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.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACA Policy

The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The PHA must 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. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- 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, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- 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;
- 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;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HACA Policy

For existing housing, the HAP contract will be executed within 10 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACA Policy

When determining whether or not to extend an expiring PBV contract, the PHA 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.

Termination by PHA [24 CFR 983.205(c) and FR Notice 1/18/17]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. 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.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [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 HQS. If the PHA determines that a contract does not comply with HQS, 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.

HACA Policy

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

HACA Policy

The PHA may add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 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 and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract s/he 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 HQS;
- 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 (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP 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.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACA Policy

The PHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

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).

HACA Policy

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.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.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, 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 the PHA, 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 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.

HACA Policy

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA 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 must be placed on the PHA’s waiting list. Once the family’s continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must 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 program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HACA Policy

As provided in Chapter 4 of this Administrative Plan, HACA will maintain one PBV waiting list for its entire PBV program that is separate from the tenant-based voucher waiting list.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with 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. The PHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

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.

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]

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. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with “excepted units” for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

HACA Policy

The PHA will follow the local preferences provided for the PBV wait list in Chapter 4 of this Administrative Plan. The PHA will also provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units), and may allow additional preferences on a project-by-project basis depending on the special need(s) served by the development, subject to applicable fair housing requirements outlined above.

17-VI.E. 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:

- 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 the PHA's selection policy;
- Remove 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).

17-VI.F. OWNER SELECTION OF TENANTS

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.

HACA 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.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

HACA Policy

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the PHA's notice.

17-VI.G. 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.

HACA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy, except for units PBV owned by the PHA.

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, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

HACA 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; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.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.

17-VII.B. LEASE [24 CFR 983.256]

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.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

HACA Policy

The PHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

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 provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

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)]

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]

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.

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 981.312, 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 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

HACA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

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.

HACA 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.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

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.

HACA 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; and

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-sized 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-sized 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.

HACA 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. If the family wishes to move with continued tenant-based assistance, 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 these 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 voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

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 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 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 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, and stalking 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.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- 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

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

HACA Policy

The PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control. The PHA will also not terminate assistance for individuals or families in units with voluntary supportive services who choose to no longer participate in a service or who no longer qualify for services.

In all other cases, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given six months from the date of the notice to move out of the PBV unit. If the family does not move out within this six-month time frame, the PHA will terminate the housing assistance payments at the expiration of this six-month period.

The PHA may make exceptions to this six month period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (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.

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. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit 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 project, 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 110 percent 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:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- 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 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

PHA Policy

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must 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, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA 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.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACA Policy

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

PHA Policy

The PHA will not apply SAFMRs to the PHA's PBV program.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program 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).

HACA Policy

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA 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 annual anniversary of the HAP contract.

HACA Policy

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 CFR 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

17-VIII.C. 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 where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA 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 project; or
- There is any other change that may substantially affect the reasonable rent.

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.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner 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;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

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.

17-IX.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.

HACA Policy

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to 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.

HACA 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 17-VI.F. 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.

17-IX.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.

HACA Policy

The PHA will make utility reimbursements to the family.

17-IX.D. 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.

PART X. RENTAL ASSISTANCE DEMONSTRATION (RAD)

The Housing Authority of the City of Asheville (HACA) has decided to participate in the Rental Assistance Demonstration (RAD) program governed by HUD Notice PIH-2012-32 (HA) Rev-1, 2/6/2014 (the RAD Notice), which implemented parts of Public Law 112-55 authorizing the RAD program. That program will allow HACA to secure a more sustainable funding stream, reduce regulatory burdens, and fund long term upgrades and replacements to its properties through a replacement reserve account or through debt financing. All of HACA's former public housing properties are converting under RAD's Project Based Voucher option, and the provisions of this Part X shall apply to those properties. There are specific resident rights outlined in the RAD Notice and implemented in subpart A, below. There are also specific waivers of the standard Project Based Voucher regulations and procedures outlined, without limitation in subpart B, below.

Note: Because Lee Walker Heights completed its RAD conversion on June 1, 2017, RAD Notice PIH-2012-32 (HA) Rev-3, 1/12/2017, applies to those 96 housing units.

17-X.A. RAD PBV RESIDENT RIGHTS [NOTICE PIH-2012-32 (HA) REV-1]

The following resident rights and participation provisions of HUD Notice PIH-2012-32 (HA) REV-1 are hereby adopted by HACA for all Project Based Voucher properties:

- 1. No Re-screening of Tenants upon Conversion.** Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. 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.
- 2. Right to Return.** 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 (see Section 1.6.B.7 and Section 1.7.A.8 on conditions warranting a transfer of assistance), 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.
- 3. Renewal of Lease.** Under current regulations at 24 CFR § 983.257(b)(3), upon lease expiration, a PHA can choose not to renew the lease, without good cause. In such a case, the regulatory consequence is the loss of the assisted unit. Under RAD, the PHA must renew all leases upon lease expiration, unless cause exists. Consequently, 24 CFR §983.257(b)(3) will

not apply. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum, as appropriate.

- 4. Phase-in of Tenant Rent Increases.** If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is waiving section 3(a)(1) of the 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. A PHA must create a policy setting the length of the phase in period at three years, five years or a combination depending on circumstances. For example, a PHA may create a policy that uses a three-year phase-in for smaller increases in rent and a five-year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion. The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section "standard TTP" refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 40% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 80% of difference between most recently paid TTP and the standard TTP
- Year 5 AR and all subsequent recertifications – Full standard TTP

Please Note: In either the three-year phase-in or the five-year phase-in, 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.

HACA Policy: HACA will use the Three Year option, unless the increase in TTP exceeds \$300 per month.

- 5. Public Housing Family Self Sufficiency (PH FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program, subject to the following:
- a. If a PHA has an HCV FSS program, a PHA must convert the PH FSS program participants at the covered project to their HCV FSS program. Please see future FSS Notices of Funding Availability and other guidance for additional details, including FSS coordinator funding eligibility of PHAs under a RAD conversion.
 - b. If a PHA does not have an HCV FSS program, the PHA must establish an HCV FSS program and convert the PH FSS program participants at the covered project into their HCV FSS program. PHAs are not required to offer enrollment in FSS to residents in converting projects and other HCV participants, other than to residents in converting projects that were enrolled in the PH FSS program. Please see future FSS Notices of Funding Availability and other guidance for additional details, including FSS coordinator funding eligibility of PHAs under a RAD conversion.

All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR Part 984 and in accordance with the participants' contracts of participation. However, 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. Current ROSS-SC 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, nor will its residents be eligible to be served by future public housing ROSS-SC grants.

HACA Policy: Upon conversion, HACA will convert all PH FSS program participants to its HCV FSS program.

- 6. Resident Participation and Funding.** In accordance with Attachment 1B, 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.

HACA Policy: After conversion, HACA will continue to recognize the duly elected resident associations of each development and the Residents Council of Asheville Housing Authority, Inc.

- 7. Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the owner's lease, which includes the required tenancy addendum, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

- a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. In addition to the regulations at 24 CFR § 983.257, related to owner termination of tenancy and eviction, as modified by the waiver in Section 1.6(C)(3) above, the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall not be less than:
- i. 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;
 - ii. 14 days in the case of nonpayment of rent; and
 - iii. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

HACA Policy: HACA will ensure that these provisions are incorporated into all resident leases. For purposes of evictions under subparagraph (i) above, the reasonable period of time will continue to be 72 hours.

- b. **Grievance Process.** HUD is incorporating additional procedural rights to comply with the requirements of section 6 of the Act. For issues related to tenancy and termination of assistance, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will waive 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, and require that:
- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as 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, as is the current standard in the program.
 - For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.
 - ii. An informal hearing will not be required for class grievances or to disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement shall 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.
 - iii. The PHA (as owner) 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)-(vi).

- iv. The PHA (as owner) provide opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

HACA Policy: Informal hearings required to be conducted by the PHA as contract administrator will be heard by the HCVP Program Director or the CEO. Informal hearings required to be conducted by the PHA as owner, will be heard by a supervisor of the employee who made the decision.

- 8. Earned Income Disregard (EID).** 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 shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Under the Housing Choice Voucher 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 disabled persons is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant (e.g., 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.
- 9. Capital Fund Education and Training Community Facilities (CFCF) Program.** CFCF provides capital funding to PHAs for the construction, rehabilitation, or purchase of facilities to provide early childhood education, adult education, and job training programs for public housing residents based on an identified need. Where a community facility has been developed under CFCF in connection to or serving the residents of an existing public housing project converting its assistance under RAD, residents will continue to qualify as "PHA residents" for the purposes of CFCF program compliance. To the greatest extent possible the community facility should continue to be available to public housing residents

17-X.B. RENTAL ASSISTANCE DEMONSTRATION- OTHER MATTERS [NOTICE PIH-2012-32 (HA) REV-1]

In addition to the resident rights discussed above, the RAD Notice grants certain waivers and/or alternate requirements for Project Based Voucher dwelling units converted under RAD. They following such provisions are hereby adopted as policy by HACA:

- 1. Maximum Amount of PBV Assistance Not Applicable** (RAD Notice 1.6.A.1).
HACA's RAD units do not count against the 20% maximum amount of HCVP budget authority that can be utilized by HACA for project based vouchers under 24 C.F.R. 983.6 and Section 17-I.A, above.
- 2. Cap on the Number of PBV Units in Each Project** (RAD Notice 1.6.A.2). The usual cap of 25% of units that can receive PBV assistance in a project is increased to 50% under RAD. HACA has decided to project base 100% of the units in its RAD conversion properties by implementing supportive services needed by very low income applicants eligible for HACA assistance and available to every resident of those properties.
- 3. Supportive Services:** HACA and its community partners offer robust supportive services for the residents of HACA's RAD PBV units. All residents are encouraged to participate in these programs. Based on congressional changes in the project based voucher program generally under HOTMA (see Section 17-II.F.), residents of units with supportive services will not be subject to termination of assistance or lease termination for choosing not to participate in a service.

Supportive services administered by HACA, for which all families are eligible and encouraged to participate include:

- The Family Self Sufficiency Program, and
- The Housing Choice Voucher Homeownership Program.

Other supportive services provided by community partners on site in HACA properties, depending on the needs of the family, include, but are not limited to:

- Housing support services for families who have experienced homelessness provided on site by Homeward Bound of WNC and other similar agencies,
- Medical and behavioral health services, including in-home visits depending on need, provided on site by the Appalachian Mountain Community Health Centers,
- Healthy food deliveries provided on site from MANNA Food Bank,
- Work skills development, job training, and job placement provided on site by Green Opportunities, SNAP 2 Skills, and the A-B Tech Job Club,
- Head Start pre-school centers provided on site by Community Action Opportunities,
- After-school programming and enrichment activities for children and youth provided on site by Children First/Communities in Schools, Hillcrest Enrichment Program, LEAF Schools and Streets, Marvelous Math Club, My Daddy Taught Me That, Read to Succeed, Youthful HAND, and Upfront Sports Management,

- Environmental education and youth empowerment provided on site by Asheville Green Works,
- High school credit recovery program provided on site by Partners Unlimited,
- Community gardens provided on site in collaboration with a number of local partners,
- Computer labs, work stations, and/or Wi-Fi connections provided on site in all HACA development offices,
- Transportation passes provided by HACA as needed by participants in the Family Self Sufficiency Program,
- Other services consistent with those listed in Section 17-II.F. above.

Although participation in a supportive services program is not mandatory for residents who are otherwise in compliance with program requirements and the lease, HACA may require participation in one or more of these programs as a remedial condition of continued occupancy for a family that has violated the lease or program requirements.

4. **Owner Proposal Selection Process** (RAD Notice 1.6.A.3). The provisions of this Chapter regarding owner selection have been waived by HUD.
5. **Site Selection** (RAD Notice 1.6.A.3). The provisions of this Chapter regarding site selection and deconcentration of poverty have been waived by HUD.
6. **PBV Contract Terms** (RAD Notice 1.6.B, pp. 34-39). The RAD PBV HAP contracts shall be for a period of 20 years, shall be renewable and shall include all of the other provisions and requirements outlined in this subsection of the RAD Notice.
7. **Regulatory Waivers and Governing Terms**. HACA adopts all regulatory waivers set forth in the RAD Notice whether specifically mentioned in this policy part or not. To the extent that any part of this Administrative Plan or Chapter 17 conflicts with the RAD Notice or this Part X, then the RAD Notice and this Part X shall prevail.

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

(Complete one for each development)

DEVELOPMENT INFORMATION

Development Name: LIFE House of Asheville

Address: 100 Peachtree Rd., Asheville, NC 28803

Owner Information: LIFE House Apartments LLC

Property Management Company: VOA National Housing Corporation

PHA-Owned: No

Mixed Finance Development: No

HAP CONTRACT

Effective Date of Contract: March 1, 2018

HOTMA Requirements: Pre-HOTMA

Term of HAP Contract: 15 Years

Expiration Date of Contract: February 28, 2033

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		8	12				20
Initial Contract Rent		\$727	\$860				

Structure Type: Single story multifamily building

Housing Type: Designed for people severe mobility impairments and their live-in-aides

UTILITY RESPONSIBILITY

[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric	Tenant	Owner
Cooking	Electric	Tenant	Owner
Water Heating	Electric	Tenant	Owner
Other Electric		Tenant	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Tenant	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: All units are fully accessible for people with disabilities

Target Population: People with severe mobility impairments

Excepted Units:

- **Supportive Services:** No
- **Elderly Units:** No
- **Disabled Units:** Yes, 20 units
- **FUPY/FYI Units:** No
- **Are units excepted because they are located in a low-poverty census tract area?:** Yes

WAITING LIST AND SELECTION

Waiting List Type: HACA Combined Project Based Voucher wait list

Preferences: See Chapter 4, Section 4-III.C: Project Based Voucher Accessible Units preference

Preference Verification: See Chapter 4, Section 4-III.C

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3.

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Vacancy Payments: Yes, up to 2 months.

Chapter 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

NOTE: This chapter of the NMA Model Admin Plan has not been adopted by the Asheville Housing Authority. See Chapter 17, Part X for provisions related to the RAD PBV Program.

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)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)

HACA Policy

The PHA will administer the following types of special purpose vouchers:

- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)

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: Foster Youth to Independence (FYI) program

Part III: Veterans Affairs Supportive Housing (VASH)

Part IV: Mainstream voucher program

Part V: Non-Elderly Disabled (NED) vouchers

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-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]

HACA Policy

This Part I of Chapter 19 is not applicable to HACA, because we do not administer any FUP vouchers.

PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

19-II.A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2021-26; FR Notice 1/24/22]

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28 or Notice PIH 2021-26, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers for those PHAs with 90 percent or greater utilization or utilization of its FUP and/or FYI vouchers, as applicable. For competitive awards, the number of vouchers is dependent on PHA program size and need.

HACA Policy

This Part II of Chapter 19 will apply if HACA and its collaborative partners are successful in its pending application for FYI vouchers.

19-II.B. PARTNERING AGENCIES [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar]

Public Child Welfare Agency (PCWA)

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

PHA Policy

The PHA will implement a Foster Youth to Independence (FYI) program in partnership with the Buncombe County Department of Health and Human Services.

The PCWA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

Continuum of Care (CoC) and Other Partners

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.

PHA Policy

In addition to the PCWA, the PHA will implement the FYI program in partnership with the Asheville Buncombe Continuum of Care, Eliada Homes, Goodwill of NWNC, Mountain Housing Opportunities, and Appalachian Mountain Community Health Centers.

19-II.C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2021-26; FYI Q&As; FYI FAQs]

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
 - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- 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;
 - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
 - *At risk of being homeless* is fully defined at 24 CFR 576.2.
 - o 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 an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

19-II.D. SUPPORTIVE SERVICES [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]

Supportive services may be provided by the PHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/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/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 eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/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/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.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

19-II.E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar FYI FAQs]

Referrals

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

PHA Policy

The PHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA 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 must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

Waiting List Placement [Notice PIH 2021-26 and FYI FAQs]

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

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 referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply (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 applicant is FYI-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 FYI-eligible.

Waiting List Selection

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

19-II.F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements 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 youth'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 Eligibility Factors

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 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 FYI 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-II.G. LEASE UP [FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FYI voucher holder 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
- The 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 FYI assistance.

PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this policy. FYI 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.

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 youth locates a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2021-26].

Turnover [FYI FAQs]

For PHAs awarded FYI Tenant Protection Vouchers (TPVs) under Notice PIH 2019-20 where the recipient of the FYI TPV leaves the program, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26.

For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, the PHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline.

19-II.H. MAXIMJUM ASSISTANCE PERIOD [Notice PIH 2021-26 and FYI FAQs; FR Notice 1/24/22]

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance 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 limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

Extension of Assistance

FYI voucher holders 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 FYI voucher holders 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 FYI voucher holders 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

FYI voucher holders 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 FYI voucher holder 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 defines *incapacitated person* as **[insert definition under state and local law]**. The PHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder 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 FYI voucher holder for this exception.

- The FYI voucher holder 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 FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

- The FYI voucher holder 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 FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder 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 FYI voucher holders. An FYI voucher holder 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 FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder 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 FYI voucher holder 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 FYI voucher holder 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

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.

- The FYI voucher holder 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 FYI voucher holder was employed.

PHA Policy

The PHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

PHA Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexam 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 an FYI voucher holder 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 FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them 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 FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- 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, 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 an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder 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 an FYI voucher holder.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI 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 FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder 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 FYI voucher holder 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 FYI voucher holder 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 FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder 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 FYI voucher holder 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 FYI 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 FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FYI voucher holder on the PHA's program with a written notification informing them that they may receive an extension of their FYI 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 reexam date. When necessary, the PHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify an FYI voucher holder'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 FYI 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 FYI voucher holder 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 the 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 FYI voucher holder 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 FYI voucher holder will still be considered to have met the requirements.

In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder 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 FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FYI voucher holder 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 FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory 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 FYI voucher must be terminated once they reach 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 FYI voucher holder 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 FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

19-II.I. TERMINATION OF ASSISTANCE [FYI FAQs]

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI 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 FYI voucher holders who are terminated due to the time limit on assistance.

19-II.J. PORTABILITY [FYI FAQs]

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

19-II.K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22]

The PHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

PHA Policy

The PHA will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

19-III.A. OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
 - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

19-III.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

PHA Policy

In order to expedite the screening process, the PHA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran.

After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

Social Security Numbers

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

Screening

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

19-III.D. CHANGES IN FAMILY COMPOSITION

Adding Family Members [FR Notice 9/27/21]

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

Remaining Family Members [HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up [HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

19-III.E. LEASING [FR Notice 9/27/21]

Waiting List

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

Exception Payment Standards

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

Voucher Issuance

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

PHA Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

Initial Lease Term

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

Ineligible Housing [FR Notice 6/18/14]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

HQS Pre-Inspections

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

19-III.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
 - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeing a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

19-III.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

VAWA [FR Notice 9/27/21]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

19-III.H. PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

Failure to Participate in Case Management [FR Notice 9/27/21]

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

PHA Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

Moves [HUD-VASH Qs and As, FR Notice 9/27/21]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

PART IV: MAINSTREAM VOUCHER PROGRAM

19-IV.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-IV.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-IV.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.

PHA Policy

The PHA will implement a Mainstream program, in partnership with interested community partners serving people with disabilities.

19-IV.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 preferences for people experiencing homelessness with a commitment of supportive services and the moving on preference, as outlined in Chapter 4, Section 4.III.C.

19-IV.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-IV.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.

PART IV: NON-ELDERLY DISABLED (NED) VOUCHERS

19-V.A. PROGRAM OVERVIEW [Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA’s HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA’s HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream)** vouchers enable non-elderly disabled families on the PHA’s waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA’s voucher waiting list.

19-V.B. ELIGIBLE POPULATION

General Requirements [Notice PIH 2013-19]

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not “age out,” as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED 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.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]

In addition to being eligible for the PHA’s regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family’s head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

19-V.C. WAITING LIST

General Requirements [Notice PIH 2013-19]

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.

Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

NED Category 2 Referrals [NED Category 2 FAQs]

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

Reissuance of Turnover Vouchers [Notice PIH 2013-19]

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

19-V.D. LEASE UP [Notice PIH 2013-19]

Briefings

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

PHA Policy

In addition to providing families with a disabled person a list of accessible units known to the PHA, the PHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

The PHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

Voucher Term

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

PHA Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

19-V.E. PORTABILITY [NED Category 2 FAQs]

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

PHA Policy

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Chapter 20

MOVING TO WORK – LOCAL NON-TRADITIONAL ACTIVITIES

INTRODUCTION

As a Moving to Work (MTW) Agency, Asheville Housing Authority has broad regulatory flexibility, including the ability to use federal HAP funds for Local Non-Traditional (LNT) activities. The following LNT's have authorized in Asheville Housing's approved 2023 MTW Supplement to the PHA Plan and will be implemented within the following guidelines.

I. SPONSOR-BASED RENTAL SUBSIDY PROGRAM (MTW Activity 2023-3)

Asheville Housing will initiate an MTW sponsor-based program to provide rental subsidies to third-party entities (other than a landlord and tenant). Selected entities will manage intake and administration of the subsidy program to implement supportive housing programs and services to help individuals and families experiencing homelessness reach independence. This flexibility may include either shallow subsidies for families who need short-term assistance, or deeper long-term subsidies for families who need permanent supportive housing, or both.

Asheville Housing will implement this initiative in collaboration with the Asheville-Buncombe Continuum of Care (NC-501) and its member agencies to prioritize needs appropriately. Through that collaboration, Asheville Housing will ensure that families, as well as individuals, experiencing homelessness receive appropriate support, and that implementation is reviewed through a racial-equity lens so that members of protected groups experiencing homelessness receive fair housing opportunities.

Asheville Housing will not spend more than 10% of its annual HAP budget on this program, alone or in combination with other local, non-traditional activities. Families receiving housing through this local, non-traditional activity shall meet the HUD definition of low-income (income at or below 80% of AMI). Activities will be subject to PIH Notice 2011-45 or any successor notice/guidance from the HUD MTW Office. MTW funds awarded to a third-party provider will be through a competitive procurement process.

II. HOUSING DEVELOPMENT PROGRAM (MTW Activity 2023-4)

Asheville Housing will initiate an MTW Housing Development Program to use HAP funding to acquire, renovate and/or build affordable units for low-income families that are not public housing units. Activities will include gap financing for development of affordable housing, development of project-based voucher units and tax credit partnerships.

The initial development projects include:

- Reimagining Deaverview, a tax-credit partnership that will include the phased redevelopment of Deaverview Apartments, an Asheville Housing project-based voucher community. New residential buildings will be constructed on vacant land before demolition of any existing units is required, ensuring that families will only have to relocate once, directly into their new apartments. When all phases are complete, the existing 160 apartments will be replaced by 320 new apartments and townhomes, including a combination of tax credit, PBV, and homeownership units.
- A similar phased redevelopment of Pisgah View Apartments, another Asheville Housing PBV community, in the future.
- Development of three new affordable apartments on Gaston Street, across the street from the Arthur Edington Career & Education Center.

Asheville Housing will not spend more than 10% of its annual HAP budget on this program, alone or in combination with other local, non-traditional activities. Families receiving housing through this local, non-traditional activity shall meet the HUD definition of low-income (income at or below 80% of AMI). Activities will be subject to PIH Notice 2011-45 or any successor notice/guidance from the HUD MTW Office. Asheville Housing will comply with any applicable provisions of Section 30 of the 1937 Housing Act. Any MTW funds awarded to a third-party provider will be through a competitive procurement process.

These activities will be funded initially from unused HAP funds currently in HUD-Held Reserves to minimize any impact on voucher utilization.

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

AAF	Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HA	Housing authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System

IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency

TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets*.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two years.

Bifurcate. 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.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

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

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. 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

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

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

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. 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.

Economic self-sufficiency program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

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

Elderly person. An individual who is at least 62 years of age.

Eligible family A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See *public housing agency*.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities*.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or their representative, or the managing agent or their representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

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

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative*.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, 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 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Small rural public housing agency (PHA). Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (housing choice voucher). A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

