PUBLIC NOTICE:

Home Forward
BOARD OF COMMISSIONERS
will meet on
Tuesday, November 19, 2024
At 5:30 pm
Zoom Link Here:
https://homeforward.zoom.us/j/85837282459?pwd=uSibflyhSI0OX2N65Bgi4V6ACDry3L.1

homeforward

MEMORANDUM

To: Community Partners

Date: November 12, 2024

From: Ivory N. Mathews, Chief Executive Officer

Subject: Home Forward Board of Commissioners November Meeting

The Board of Commissioners of Home Forward will meet on Tuesday, November 19 at 5:30 PM virtually using the Zoom platform. The meeting will be accessible to the public via phone and electronic device.

If you would like to provide public testimony or view the meeting, please use this link: https://homeforward.zoom.us/j/85837282459?pwd=uSibflyhSI0OX2N65Bgi4V6ACDry3L.1
The commission meeting is open to the public.

AGENDA

BOARD OF COMMISSIONERS MEETING

HOME FORWARD
135 SW ASH STREET
PORTLAND, OREGON
VIA ZOOM
https://homeforward.zoom.us/j/85837282459?pwd=uSibflyhSI0OX2N65Bgi4V6ACDry3L.1
NOVEMBER 19, 2024, 5:30 PM
AGENDA

INTRODUCTION AND WELCOME

PUBLIC COMMENT

General comments not pertaining to specific resolutions. Any public comment regarding a specific resolution will be heard when the resolution is considered.

MEETING MINUTES

Topic
Minutes of October 15, 2024 Board of Commissioners Virtual Meeting

CONSENT CALENDAR

Following Reports and Resolutions:			
24-11	Topic	Presenter/POC	Phone #
01	Authorize Changes to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan	Ian Slingerland	503.802.8370

REPORTS AND RESOLUTIONS

Following Reports and Resolutions:			
24-11	Topic	Presenter/POC	Phone #
02	Authorize Early Learning Center Tenant Improvement Amendment to Killingsworth Housing's Construction Manager/General Contractor (CM/GC) Contract with O'Neill/Walsh Community Builders	Jonathan Trutt Patrick Rhea	503.802.8507 503.802.8311

THE NEXT MEETING OF THE BOARD OF COMMISSIONERS

Home Forward will continue to conduct board-related business as it is currently scheduled but will update the public on the venue or forum by which it occurs if the situation changes.

The Board Work Sessions are quarterly with the next meeting on Thursday, February 6, 2025 at Noon. The next Board of Commissioners meeting will be Tuesday, December 17, 2024 at 5:30 PM.

EXECUTIVE SESSION

The Board of Commissioners of Home Forward will meet in Executive Session pursuant to ORS 192.660(2)(e) for the purpose of discussing a real property transaction. Only representatives of the news media and designated staff are allowed to attend. News media and all other attendees are specifically directed not to disclose information that is the subject of the session. No final decision will be made in the session.

ADJOURN

MINUTES

BOARD OF COMMISSIONERS MONTHLY MEETING
HOME FORWARD
HELD VIRTUALLY
135 SW Ash Street Portland, OR 97204
October 15, 2024

COMMISSIONERS PRESENT

Chair Matthew Gebhardt, Vice Chair Jenny Kim, Chair Emeritus and Treasurer Damien Hall, Commissioners Jessy Ledesma, Breann Preston, Rakeem Washington

STAFF PRESENT

April Berg, Ian Davie, Robert Dell, Dena Ford-Avery, Juli Garvey, Biljana Jesic, Ivory Mathews, Kitty Miller, Jimmy Rattanasouk, Amanda Saul, Kellie Shaw, Ian Slingerland, Aimee Smith, Celia Strauss, Jonathan Trutt, Linda Uppinghouse, Terren Wing

LEGAL COUNSEL

Sarah Stauffer Curtiss

Chair Matthew Gebhardt convened the meeting of the Board of Commissioners at 5:31 PM welcoming newest commissioner Breann Preston.

Cathy Millis, resident at Dahlke Manor was thankful to be joining the meeting and happy to report Dahlke Manor is floating along. There is an upcoming resident meeting that will explain the three new boards where residents can bring issues or concerns. The hygiene closet continues to be popular and is restocked monthly through donations. Millis appreciated being part of the Home Forward community.

Chair Matthew Gebhardt welcomed Millis' participation, and the ongoing updates. Adding this information is also helpful to staff. We look forward to seeing Millis at the next meeting.

MEETING MINUTES

Minutes of the September 17, 2024 Board of Commissioners Work Session

Chair Matthew Gebhardt requested a motion authorizing approval of the minutes for the September 17, 2024 Board of Commissioners Virtual Meeting.

There being no discussion, Chair Emeritus Damien Hall moved to approve the meeting minutes. Vice President Jenny Kim seconded the motion.

The vote was as follows:

Chair Matthew Gebhardt—Aye
Vice Chair Jenny Kim—Aye
Chair Emeritus Damien Hall—Aye
Commissioner Jessy Ledesma—Aye
Commissioner Breann Preston—Aye
Commissioner Rakeem Washington—Aye

RESOLUTIONS

Resolution 24-10-01 Authorize Execution of a Contract for Professional Architecture and Engineering Services for the Development of the Broadway Corridor

Amanda Saul, Assistant Development Director presented the resolution saying this represents a new project with more resolutions to come. She shared pictures of the proposed project and provided a brief overview of the project and the two resolutions. The Broadway Corridor Project will develop the main US Postal Servies site. Home Forward and Urban League of Portland's team were selected as developer for Parcel 4A. Home Forward selected Holst Architecture and Colas Construction via an RFP. Urban League of Portland will also be a services provider.

Resolution 24-10-01 authorizes architecture and engineering services with Holst Architecture in an amount of $5,000,000. Saul reviewed the selection process and noted that Holst is a woman owned business and expects to meet the 28% requirement for COBID participation goals. The full scope of work will include architecture and engineering services from programming through construction administration, including the initial contract of $25,000 for work preparing the RFP and amendment #1 of $65,684 for a CLT feasibility study. Holst Architecture will also support Home Forward during our community outreach efforts in the beginning phase of the project. Construction is anticipated to start in summer of 2026.

Saul responded to Commissioner Jessy Ledesma's question of other projects we have done with Holst, which included most recently the Hazel Ying Lee. Assistant Development Director April Berg added work with Groups 5 and 6, Bud Clark Commons and Beech Street. Plus, Colas partnered on the Stephens Creek Crossing project and the Hazel Ying Lee project was a partnership of Holst and Colas.

There being no discussion, Chair Matthew Gebhardt requested a motion to approve Resolution 24-10-01. Commissioner Jessy Ledesma moved to adopt Resolutions 24-10-01. Vice Chair Jenny Kim seconded the motion.

The vote was as follows:

Chair Matthew Gebhardt—Aye
Vice Chair Jenny Kim—Aye
Chair Emeritus Damien Hall—Aye
Commissioner Jessy Ledesma—Aye
Commissioner Breann Preston—Aye
Commissioner Rakeem Washington—Aye

Resolution 24-10-02 Authorize execution of Contract for Construction Management/General Contractor Services for the Development of the Broadway Corridor Project

Assistant Director Amanda Saul continued the discussion saying Resolution 24-10-02 authorizes pre-construction services from Colas Construction and its subcontractors in an amount of $850,000. Although this resolution is under the threshold of $1M, we anticipate more will be coming at the time of the financial closing and start of construction. Saul reviewed the selection process, adding Colas Construction plans to meet or exceed our 30% COBID participation goals. In closing, both resolutions were reviewed at the October 4, 2024 READ Committee meeting.

Commissioner Breann Preston appreciated the context and asked about the breakdown of allocated funds. Saul explained Home Forward and the City of Portland funds adding that we will apply to the State for additional funding. Home Forward will defer a portion of our developer fee and described how this works. We will also be including housing choice vouchers.

Commissioner Jessy Ledesma commended the team on this very important project.

There being no discussion, Chair Matthew Gebhardt requested a motion to approve Resolution 24-10-02. Commissioner Breann Preston moved to adopt Resolutions 24-10-02. Vice President Jenny Kim seconded the motion.

The vote was as follows:

Chair Matthew Gebhardt—Aye
Vice Chair Jenny Kim—Aye
Chair Emeritus Damien Hall—Aye
Commissioner Jessy Ledesma—Aye
Commissioner Breann Preston—Aye
Commissioner Rakeem Washington—Aye

Resolution 24-10-03 Authorize Fairfield Construction Contract Increase

Assistant Development Director Amanda Saul presented the resolution. The Fairfield Apartments are located at SW 11th and Harvey Milk Street. There will be a grand opening on Wednesday, October 23 at noon. The property received its Certificate of Occupancy on July 17, 2024, with basic lease up completed and staff on site.

To pay for project completion, Home Forward will need to increase our construction expenditures above the $18,061,138 amount previously authorized by the Board. The additional expenditure authority is required by structural complications experienced during the building's seismic retrofit. The Fairfield Apartments is a previously unreinforced masonry building more than 100 years old. Saul described the building previously owned by the Portland Development Commission highlighting the complete rehab, relocation of all residents during construction. 100% of the returning residents have been chronically homeless and will have available permanent supportive housing. One noted change to the property will be three ground floor commercial spaces purchased by Prosper Portland through a condominium agreement.

Staff anticipates that up to $1,750,000 of additional construction spending authorization is needed to pay for the completed construction of The Fairfield Apartments. Home Forward will pay these additional construction costs with project cost savings and/or owner held contingency funds. No Home Forward reserves or additional funding from the City or State will be needed in conjunction with the approval of this requested increase in construction expenditures. Commissioner Breann Preston asked about the budget impacts with the reallocation of funds. Saul clarified that there are no impacts to the project budget and reallocation is for unanticipated construction.

There being no discussion, Chair Matthew Gebhardt requested a motion to approve Resolution 24-10-03. Vice President Jenny Kim moved to adopt Resolutions 24-10-03. Chair Emeritus Damien Hall seconded the motion.

The vote was as follows:

Chair Matthew Gebhardt—Aye
Vice Chair Jenny Kim—Aye
Chair Emeritus Damien Hall—Aye
Commissioner Breann Preston—Aye
Commissioner Jessy Ledesma—Aye
Commissioner Rakeem Washington—Aye

RESOLUTION 24-10-04 Authorize Contract Authority Increase for Grace Peck Terrace

Development Project Manager Robert Dell presented the resolution describing the property and the details of the occupied renovation project. Staff anticipates that up to $300,000 of additional construction spending authorization will be needed to pay for Grace Peck Terrace. The increase is above the approved expenditure of $22,544,723. Home Forward feels the add-backs support longevity of the building and quality of life for the residents and will pay these additional construction costs using existing soft cost reallocation or owner held contingency funds already allocated to the project.

Commissioner Breann Preston asked if it is typical to bring this type of cost movement to the board. Dell said we do minimize board action. April Berg, Assistant Development Director clarifying that the increase was above the GMP and not the budget. Dell responded to Commissioner Jessy Ledesma that we ask for a specific dollar amount versus a percentage. Commissioner Ledesma recognized the difficulty in doing an occupied and appreciated the great work.

In closing, Dell share before and after photographs of the work. A striking difference as noted by Chair Gebhardt.

There being no discussion, Chair Matthew Gebhardt requested a motion to approve Resolution 24-10-04. Vice President Jenny Kim moved to adopt Resolutions 24-10-04. Commissioner Jessy Ledesma seconded the motion.

The vote was as follows:

Chair Matthew Gebhardt—Aye
Vice Chair Jenny Kim—Aye

Chair Emeritus Damien Hall—Aye
Commissioner Jessy Ledesma—Aye
Commissioner Breann Preston—Aye
Commissioner Rakeem Washington—Aye

There being no further business, Chair Matthew Gebhardt adjourned the meeting at 6:12 PM.

Celia M. Strauss
Recorder, on behalf of
Ivory N. Mathews, Secretary

ADOPTED: NOVEMBER 19, 2024

Attest:

_____
Ivory N. Mathews, Secretary

Home Forward:

_____
Matthew Gebhardt, Chair

CONSENT CALENDAR

MEMORANDUM

To: Board of Commissioners

Date: November 19, 2024

From: Ian Slingerland
Director of Homeless Initiatives and Supportive Housing
503.802.8370

Subject: Authorize Changes to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan
Resolution 24-11-01

The Board of Commissioners is requested to authorize changes to Home Forward's Administrative Plan, the programmatic policy document for our Rent Assistance program. The requested changes are to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan. These changes are needed to reflect recent Department of Housing and Urban Development (HUD) policy notices regarding the Mainstream, Veterans Affairs Supportive Housing (VASH), and Housing Choice Voucher (HCV) programs. These updates align the Administrative Plan with requirements for these respective federal rent assistance programs.

Changes have been made to Chapters 17 and 18 to bring the Project Based Voucher (PBV) program into alignment with Moving to Work (MTW) Activity 24, which, amongst other authority, extends the timeline for a participant to be without a housing assistance payment contract from 180 to 365 days prior to automatic termination from the HCV program. These changes will cover traditional Project Based Vouchers funded through the Housing Choice Voucher program as well as Project Based Vouchers converted from former public housing funded as part of HUD's Rental Assistance Demonstration (RAD) conversions.

These actions support Strategic Plan Priorities: Improve Services to Residents and Participants; Support Employees; and Lead Within the Housing Stability Ecosystem.

BACKGROUND

HUD recently released policy changes to the Mainstream, VASH, and HCV programs aimed at improving access to housing opportunities. For the Mainstream voucher program, HUD announced mandatory waivers and alternative requirements for administration of funds which aim to help housing authorities improve utilization. The Mainstream notice established discretionary program polices that housing authorities may choose to adopt.

The revised HUD-VASH operating requirements intend to help more veterans receive assistance under the program and improve access to supportive housing developments. The notice includes new requirements and policy options where public housing authorities have discretion to choose how they will operate their program.

The Administrative Plan changes reflect both of these new requirements and areas where Home Forward is electing to adopt some of the new policy options.

OVERVIEW - ADMINISTRATIVE PLAN CHANGES

Home Forward is proposing the following changes to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan.

Chapter 2	
Current policy	Amended policy
o Outlines that the PHA provides housing search assistance to each voucher recipient.	o Clarifies that the PHA provides housing search assistance to voucher recipients upon request.

Chapter 3	
Current policy	Amended policy
o Outlines income limits for eligibility at admission.	o Adds language to align with VASH notice regarding the exclusion of VA service-connected disability benefits for determining income eligibility.

Chapter 5	
Current policy	Amended policy
o Details the documents and information that will be provided in the briefing packet for applicant families who qualify for a voucher. o Outlines policies for extensions of voucher term.	o Clarifies that the list of landlords in the briefing packet will identify accessible units.

	○ References details regarding extensions for Mainstream vouchers are outlined in Chapter 20.
Chapter 6	
Current policy	Amended policy
○ Details treatment of periodic payments, including lump-sum payments, for the purposes of determining annual income.	○ Adds language to align with VASH notice regarding VA service-connected disability benefits being included for the purposes for determining total tenant payment, housing assistance payment, and family share.

Chapter 7	
Current policy	Amended policy
○ Details policy for requirements related to documentation of social security numbers for each member of the household. ○ Outlines policy for self-certification of assets of $5,000 or less.	○ Adds notice references and details new SSN verification hierarchy requirements, including the ability to accept self-certification of SSN and at least one third-party document containing the name of the individual. ○ Updates language to align with VASH notice requirements that PHAs must accept self-certification of family's total assets if they are less than or equal to $50,000.

Chapter 10	
Current policy	Amended policy
○ Outlines process and requirements for the receiving housing authority when a family moves under portability.	○ Adds language to align with the VASH notice requirements, including that the receiving PHA may not rescreen a VASH family that moves under portability and that the PHA will only screen for income eligibility and lifetime sex offender status.

Chapter 15	
Current policy	Amended policy
○ Outlines eligible special housing types.	○ Adds language to align with the VASH notice requirements that families will be permitted to use Single Room Occupancy, congregate housing, group home, shared housing, and cooperative housing.

Chapter 16	
Current policy	Amended policy
○ Details approach to payment standards.	○ Clarifies that Home Forward may establish separate payment standards up to 120 percent of FMR for EHV, FUP, FYI, Mainstream, Stability Voucher, and the FUP and FYI expiration preferences.

Chapter 17	
Current policy	Amended policy
○ Outlines policy for amendments to the Housing Assistance Payment (HAP) contract.	○ Clarifies that the PHA's policy related to 365 days at zero HAP applies to PBVs.

Chapter 18	
Current policy	Amended policy
○ Details policies related to continuation of Housing Assistance Payments.	○ Adds language that clarifies for any new families admitted after Rental Assistance Demonstration (RAD) conversion, their assistance will be terminated 365 days after the last HAP payment on their behalf.

Chapter 20	
Current policy	Amended policy
○ Outlines approaches to payment standards by voucher program. ○ Describes approach to SSN verification for HCV program eligibility. ○ Outlines approach to determining income eligibility for VASH families. ○ Details ineligible housing types for leasing under the VASH program.	○ Details the PHA's ability to set separate higher payment standards for families served by the FUP and FYI expiration preference, as well as the Mainstream voucher program. ○ Adds language to detail the SSN verification hierarchy approach and flexibilities available to the PHA. ○ Adds language to align with VASH notice regarding the exclusion of VA service-connected disability benefits for determining income eligibility.

○ Allows pre-inspection of units for VASH within 45 days. ○ Details approach to project-basing VASH vouchers.	○ Adds language to align with the VASH notice requirements that families will be permitted to use Single Room Occupancy, congregate housing, group home, shared housing, and cooperative housing. ○ Updates language to align with the VASH notice requirements to clarify that if a VASH family selects a unit that passed HQS inspection within 90 days of request, the unit may be approved for occupancy. ○ Adds language to allow for non-competitive PBV projects if on the site of a VA facility. ○ Adds language to admit zero HAP families into VASH PBV if VASH PBV is on the grounds of a VA facility or if VA supportive services are provided on site.

CONCLUSION

Accordingly, staff request approval for changes to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan.

ATTACHMENTS

Chapter 2 Administrative Plan (Redline)
Chapter 3 Administrative Plan (Redline)
Chapter 5 Administrative Plan (Redline)
Chapter 6 Administrative Plan (Redline)
Chapter 7 Administrative Plan (Redline)
Chapter 10 Administrative Plan (Redline)
Chapter 15 Administrative Plan (Redline)
Chapter 16 Administrative Plan (Redline)
Chapter 17 Administrative Plan (Redline)
Chapter 18 Administrative Plan (Redline)
Chapter 20 Administrative Plan (Redline)

RESOLUTION 24-11-01

RESOLUTION 24-11-01 AUTHORIZES HOME FORWARD STAFF TO AMEND CHAPTERS 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, AND 20 OF HOME FORWARD'S ADMINISTRATIVE PLAN

WHEREAS, the Department of Housing and Urban Development (HUD) permits a Public Housing Authority to amend and modify its Administrative Plan with Board of Commissioners' approval; and

WHEREAS, on August 13, 2024, HUD published in the Federal Register Docket No. FR-6476-N-01 on Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program; and

WHEREAS, on August 20, 2024, HUD released Notice PIH 2024-30 on Statutory and Regulatory Waivers for Mainstream Vouchers; and

WHEREAS, Home Forward proposes amendments to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan to incorporate the updates outlined the above referenced notices; and

WHEREAS, from time to time, Home Forward reviews its programmatic policy documents to bring them into alignment with current policies and practices; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Home Forward that Home Forward staff is authorized to make the changes to Chapters 2, 3, 5, 6, 7, 10, 15, 16, 17, 18, and 20 of the Administrative Plan as outlined in the November 17, 2024 Memorandum and attachments from Home Forward staff to the Board of Commissioners.

ADOPTED: NOVEMBER 19, 2024

Attest:

_____

Ivory N. Mathews, Secretary

Home Forward:

_____

Matthew Gebhardt, Chair

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

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PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012
- Violence Against Women Reauthorization Act of 2013 (VAWA)

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

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

> PHA Policy
>
> The PHA will comply with the Oregon Civil Rights Law and local nondiscrimination laws.

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2-I.B. NONDISCRIMINATION

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

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

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

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

> PHA Policy
>
> The PHA will not discriminate against any of the federally-protected classes listed above. Additionally, the PHA will not discriminate against state-protected classes, including legal sources of income and domestic violence victims.

The PHA will not use any of these factors to:

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

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Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

PHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the PHA. Complaints made against the PHA must be submitted in writing within 30 days of the PHA's action/inaction in question.

The PHA will attempt to remedy discrimination complaints made against the PHA.

The PHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

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PART II: POLICIES RELATED TO PERSONS WITH DISABIILITIES

2-II.A. OVERVIEW

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

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

PHA Policy

The PHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the PHA, by including the following language:

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

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

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2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

Types of Reasonable Accommodations

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

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

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2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

PHA Policy

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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2-II.D. VERIFICATION OF DISABILITY

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

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

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

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

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2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

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

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

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

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

PHA Policy

Any reasonable accommodation request, whether verbal or written, will be documented by staff in receipt of the request and, barring exceptional circumstances, will be acknowledged within five (5) business days of receiving the request.

Barring exceptional circumstances, the PHA will provide a substantive written response within 15 business days of receiving the request or the most recent discussion about the request.

Prior to the PHA denying a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the PHA's operations), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family, in writing, of its determination within 15 business days from the date of the most recent discussion or communication with the family.

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

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

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

PHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

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2-II.G. PHYSICAL ACCESSIBILITY

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

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

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

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

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

When issuing a voucher to a family that includes an individual with disabilities, the PHA will provide a current list of available accessible units known to the PHA upon request.

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

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2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

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

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

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

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

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2-III.B. ORAL INTERPRETATION

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

PHA Policy

The PHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the PHA will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the PHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

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

PHA Policy

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

The PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the PHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

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2-III.D. IMPLEMENTATION PLAN

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

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

PHA Policy

If it is determined that the PHA serves very few LEP persons, and the PHA has very limited resources, the PHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

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The definition of a person with disabilities does not include:

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

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

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

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

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EXHIBIT 2-2: AFFIRMATIVELY FURTHERING FAIR HOUSING IN HOUSING CHOICE VOUCHER AND FAMILY SELF-SUFFICIENCY PROGRAMS

The PHA is committed to affirmatively furthering fair housing in all areas of the housing choice voucher (HCV) program operations, including the HCV family self-sufficiency (FSS) program and the Family Unification Program (FUP). The PHA will comply with all federal, state, and local laws and regulations governing nondiscrimination, fair housing and equal opportunity.

The PHA takes the following steps to affirmatively further fair housing in its HCV and HCV FSS programs:

1. Advertise for employment opportunities widely in the community, including minority media and specific papers developed for ethnic communities.
2. Ensure that all Section 8 and FSS staff attends fair housing and diversity training on an annual basis.
3. Actively support other agencies and legislation that furthers fair housing.
4. Promote active and open communication and maintain good working relationships with federal and local fair housing agencies and HUD's staff.
5. Maintain records of any FSS-specific steps taken to affirmatively further fair housing and report on them in the final year-end report for the HCV FSS program.
6. Post nondiscrimination notices in Section 8 and FSS offices.
7. Track family demographics, including race, ethnicity, familial status, and disability status of program participants.
8. Provide information and resources available to applicants and participants who believe they may be victims of discrimination.

The PHA has implemented the following objectives / activities to address and overcome potential impediments to fair housing.

1. **To help overcome any impediments to fair housing choice related to the assisted program (HCV) itself, the PHA has taken or will take the following steps:**
   a. Take reasonable steps to ensure meaningful access to programs and services by persons with Limited English Proficiency (LEP).
   b. Develop a close partnership with various landlord associations in the State of Oregon and work collaboratively with them to market the HCV program.
   c. Conduct extensive landlord outreach to encourage acceptance of HCVs in community including marketing, landlord classes, newsletters, participation in local landlord events and trainings to educate and inform landlords and give greater access to units throughout all areas of the County.
   d. Use landlords currently participating in the HCV program to conduct outreach to their colleagues to educate and inform about the benefits of HCV participation.
   e. Increase payment standards in areas with higher market rents allowing affordability to voucher recipients in most areas of the County.
   f. Update rent reasonableness comparison data on a bi-annual basis to ensure the PHA is approving rental rates based upon the current rental market.
   g. Educate HCV participants on the location of low-poverty census tracts and the greater opportunity that may be present in such areas for them and their children.

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h. Participate in the Housing Choice Advisory Committee created by a new Oregon law (House Bill 2639). The new law explicitly states that Section 8 or any other local, state, or federal housing assistance is included in the source of income protection. The new law also creates the Housing Choice Landlord Guarantee Program to compensate landlords for damages incurred as a result of tenancies by Section 8 voucher holders. The new law is effective July 1, 2014.

2. To promote housing-related opportunities that overcome the effects of past discrimination because of race, color, national origin, religion, sex, disability, and familial status the PHA has implemented the following:

a. Prior to the waiting list openings, market Section 8 and FSS programs to diverse groups throughout the community.
b. Ensure equal access to assisted housing programs and services regardless of race, color, religion, national origin, sex, familial status, and disability.
c. Provide basic information during the mandatory program orientation / briefing for all applicants regarding fair housing and the fact that all applicants have the right to be treated equally and fairly. Inform applicants that if they believe they are discriminated against because of their membership in one of the protected classes, they should file a discrimination complaint, and educate them on how to complete and submit the complaint form and who to contact if they would like assistance with this process.
d. Maintain a listing of available units within the PHA office as well as online computer access for one-stop shopping. Upon request send this information via mail or electronically.
e. Conduct ongoing monitoring to ensure equal or greater access to HCVs for a diverse population that reflects the citizenship of the PHA's jurisdiction. On an ongoing basis, the PHA analyzes the demographics of those on the PHA's waiting list, compared to those who receive assistance, and then compares that data with the demographics of the entire County to ensure the PHA's processes and procedures are allowing access to low income members of the community representing all ages, races, and a wide variety of demographics.
f. Provide written translation of critical documents necessary to receive and maintain housing assistance for each eligible LEP language group in accordance with the PHA's LEP plan. The PHA reaches out to fill staff positions to language-specific applicants.
g. Provide information and resources available to applicants and participants who believe they may be victims of discrimination.
h. Provide discrimination complaint forms and assist in completing the forms.

3. The PHA is committed to promoting accessibility for persons with disabilities and has taken the following steps towards that commitment:

a. Ensure that all Section 8 and FSS offices are accessible to persons with disabilities.
b. Maintain a list of available accessible units known to the PHA.
c. Provide reasonable accommodations to persons with disabilities to ensure full access to programs and services.
d. Provide subsidy standard exceptions to persons with disabilities to accommodate medical equipment, live-in aide and/or other needs.

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e. In accordance with rent reasonableness requirements, approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities.
f. Where requested by an individual, assist program applicants and participants gain access to supportive services available within the community, but not require eligible applicants or participants to accept supportive services as a condition of continued participation in the program.
g. Identify public and private funding sources to assist participants with disabilities in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disabilities.
h. Not deny persons who qualify for a HCV other housing opportunities, or otherwise restrict access to PHA programs to eligible applicants who choose not to participate.
i. Provide housing search assistance.
j. Provide information and resources available to applicants and participants who believe they may be victims of discrimination.
k. Provide discrimination complaint forms and assist in completing the forms.
l. Provide limited access to security deposit assistance for homeless, disabled veterans accessing the VASH voucher program.
m. Refer to the 211 services referral hotline for access to listings of agencies that can assist disabled applicants with deposits, application fees, modifications, and housing search assistance.

4. The PHA provides housing search assistance in the following ways:

a. Provide listings of available units from within the PHA office via participating local landlords. Listings are updated weekly.
b. Maintain and distribute a listing of accessible and affordable tax credit units.
c. Provide extensive training to voucher recipients on how to look for and apply for a unit, and counsel them on low poverty areas and the additional opportunity they may present.
d. Maintain an in office list of landlords who are willing to work with high barrier participants. Section 8 staff accesses this resource regularly when assisting voucher holders who are having difficulty leasing a unit.
e. Upon request, personally contact and assist voucher recipient to overcome their personal barriers through education, counseling and encouragement 60 days after they have received a voucher.

The PHA is committed to continuing and expanding the specific activities listed above as the PHA continues to affirmatively further access to housing for all low income applicants and participants in the Section 8 HCV and FSS programs.

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

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

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

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

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PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender identity means actual or perceived gender-related characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

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

Once initial eligibility process is completed, the changes to family composition will be allowed in accordance with policies in Section 11-II.C.

Household

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

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

Family Break-up [24 CFR 982.315]

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see Section 16-IX.D of this plan.)
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

PHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

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

VASH and FUP Vouchers

Since the set-aside of VASH and FUP vouchers is for veterans or FUP-qualified participants respectively, the voucher will remain with the veteran or FUP-qualified participant in the case of a family break-up.

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Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

Special Purpose Vouchers (Including VASH and FUP Vouchers)

PHA Policy

Death of a Family Member

If the family member who initially qualified for a special purpose voucher dies, the remaining family members of the tenant family will continue to be assisted. The PHA will use one of its own vouchers, if available, to continue assisting the family and free up the special purpose voucher for another family eligible for the special program.

If a regular voucher is not available, the family will continue to utilize the special purpose voucher. Once the special purpose voucher turns over, it will go to a family eligible for the special program.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If the family member who initially qualified for a special purpose voucher commits an act of domestic violence, dating violence, sexual assault, or stalking and is terminated from the program in accordance with policies in Chapter 12 for violating the family obligation not to engage in violent criminal activity, the victim will continue to be assisted. The victim will be given a regular HCV if one is available, and the perpetrator's special purpose voucher will be used to serve another family eligible for the special program.

If a regular HCV is not available for the victim and the perpetrator is terminated from the program, the victim will continue to utilize the special purpose voucher. Once the special program voucher turns over, it will be issued to another family eligible for the special program.

The PHA will request documentation from the victim to support the claim for VAWA protections in accordance with policies in Chapter 16 of this plan.

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3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

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

PHA Policy

At the time of application for assistance, the family may designate any qualified family member as the head of household.

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

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

PHA Policy

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

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

PHA Policy

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

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

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3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 50 percent of the time. In 50-50% cases, the families must decide which family will claim the child or children as family members and dependents. Only one family may claim the child or children as dependents. The dependent allowance may not be shared.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

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

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

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3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

3-I.I. SENIOR / PEOPLE WITH DISABILITIES AND WORK-FOCUSED HOUSEHOLDS [MTW Plan]

The PHA's rent reform initiative has established a rent and subsidy calculation methodology that distinguishes between two household types: seniors / people with disabilities and the work-focused households.

Senior Persons

A senior person is a person who is at least 55 years old.

Senior and People with Disabilities Household

Senior and people with disabilities household is a household in which the head, spouse, or cohead is a senior or a person with disabilities.

VASH voucher households

Regardless of age / disability, households participating in HUD-VASH program authorized by 2008 Appropriation Act meet the definition *of Senior and People with Disabilities Household* in regard to rent calculation under rent reform.

Emergency Housing Voucher (EHV) households

Regardless of age / disability, households participating in EHV program meet the definition *of Senior and People with Disabilities Household* in regard to rent calculation under Rent Reform.

Households Residing in Converted RAD Mod Rehab Projects

Regardless of age / disability, households residing in converted RAD Mod Rehab projects meet the definition *of Senior and People with Disabilities Household* in regard to rent calculation under rent reform.

Work-focused Household

Work-focused household is a household in which neither the head, spouse, nor cohead is a senior or a person with disabilities. All households that do not meet the definition of a senior and people with disabilities household are considered work-focused households.

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3-I.J. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

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

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

Disabled Family

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

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

3-I.K. GUESTS [24 CFR 5.100]

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

PHA Policy

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

The PHA will provide blanket exceptions for guests who have been displaced due to a natural disaster, including wildfire, that has received a National or State disaster declaration. The household must request and have the PHA approve the exception to the guest policy. The PHA will accept self-certification from the household that their guest is eligible for this exception. The guest may remain in the unit for up to 12 months.

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3-I.L. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

PHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

The PHA requires full name, social security number, and date of birth of each individual requested to be added to an assisted household as a foster child or a foster adult. It is the responsibility of the custodial agency to provide this information. If the information is not provided, foster care services may not be provided in the assisted unit.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.M.

3-I.M. ABSENT FAMILY MEMBERS

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

Family Absence from the Unit

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

PHA Policy

If a family is absent from the unit for more than 60 consecutive calendar days and does not meet one of the exceptions outlined in Section 12-I.D, the unit will not be considered the family's principal place of residence, and the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

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Definitions of Temporarily and Permanently Absent

PHA Policy

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

Absent Students

PHA Policy

When a full-time student who has been considered a family member attends school away from home, the family may either remove the person's name from the lease and from the voucher or retain the person as a family member, unless information becomes available to the PHA indicating that the student has established a separate household.

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

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

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been removed from the home for a period of more than 180 consecutive calendar days, the child will be counted as a family member.

Absences Due to Incarceration

PHA Policy

If any adult family member is incarcerated for a period of more than 60 consecutive calendar days, that person will no longer be considered a family member. The family must submit a document from the court or institution indicating the length of incarceration.

If the sole family member is absent from the assisted unit due to incarceration, policy on family absence from the unit (discussed earlier in this section) will apply.

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

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

PHA Policy

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence. If the responsible medical professional provides a determination that the person will be confined for a period of more than 180 consecutive calendar days, the person will be considered permanently absent and will not be considered a family member.

Return of Permanently Absent Family Members

PHA Policy

The family must request PHA approval for the return of any adult family members that the PHA previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

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3-I.N. LIVE-IN AIDE

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

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

The definition of a live-in aide applies to a specific person. The PHA may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide [PIH Notice 2008-20 (HA)].

Occasional, intermittent, multiple or rotating caregivers do not meet the definition of a live-in aide since 24 CFR 982.402(7) implies live-in aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards established by the PHA. Therefore, regardless of whether these caregivers spend the night, an additional bedroom should not be approved [PIH Notice 2008-20 (HA)].

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. See Section 2-II.C for a discussion of reasonable accommodation request.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. The live-in aide must provide a valid photo ID and must sign all applicable authorization forms for release of information.

The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

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

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The PHA will notify the family of its decision in writing within 15 business days of receiving a request for a live-in aide, including all required documentation related to the request.

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PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Definitions of the Income Limits [24 CFR 5.603(b), FR Notice 6/25/14]

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant family to the applicable income limit for their family size. Annual income used to establish eligibility will be determined in accordance with HUD regulations as listed in Chapter 6. Any MTW modifications related to annual income are not applicable for the purpose of determining income eligibility.

Payments received by participants from all Veterans Affairs service-connected benefits. The **VA service-connected disability benefits are excluded for purposes of determining income eligibility**, but they are included for purposes of calculating the total tenant payment, housing assistance payment, and family share (Docket No. FR-6476-N-01).

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

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

  PHA Policy

  The PHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the PHA's waiting list.

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- A *low-income* family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing

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

- A *low-income* or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

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

PHA Policy

The PHA has established the following additional categories of eligible low-income families:

- A *low-income* family that is displaced because of demolition or disposition of a public housing project
- A *low-income* family that is residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project
- A *low-income* family that is residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term
- A *low-income* family that is referred under the Veterans Affairs Supportive Housing (VASH) program.

Using Income Limits for Targeting [24 CFR 982.201]

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

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

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3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

> PHA Policy
>
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

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

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

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Ineligible Noncitizens

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

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

Mixed Families

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

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

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

> PHA Policy
>
> The PHA will not provide assistance to a family before the verification of at least one family member.
>
> When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 15 business days of the determination.
>
> The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.
>
> Informal hearing procedures are contained in Chapter 16.

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

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

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

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

PHA Policy

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

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

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

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

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

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3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

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

PHA Policy (MTW)

The PHA will use its equivalent form in place of form HUD-9886, Authorization for Release of Information/Privacy Act Notice.

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

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3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]

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

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

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

Definitions

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

Dependent Child

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

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Independent Student

PHA Policy

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

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

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

   a. The individual is 24 years of age or older by December 31 of the award year;

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

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

   d. The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes;

   e. The individual is a graduate or professional student;

   f. The individual is a married individual;

   g. The individual has legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);

   h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied, at risk of homelessness, and self-supporting, by –

      (i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;

      (ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

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(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

3. The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations.

4. The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If the PHA determines that an individual meets the definition of a *vulnerable youth* such determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

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

Institution of Higher Education

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

Parents

PHA Policy

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

Person with Disabilities

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

Veteran

PHA Policy

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

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Vulnerable Youth

PHA Policy

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

> The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
>
> The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence
>
> The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
>
> - a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
> - the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
> - the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
> - a financial aid administrator.

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Determining Student Eligibility

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

PHA Policy

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

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

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

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Determining Parental Income Eligibility

PHA Policy

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

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

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

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PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

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

Denial of assistance includes any of the following:

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

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

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

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

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3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

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

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

  PHA Policy

  The PHA will admit an otherwise eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the circumstances which led to the eviction no longer exist.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  Note: Based on federal law, new admissions of medical marijuana users are prohibited based on the illegal use of controlled substances, including state legalized medical marijuana. State laws that legalize medical marijuana directly conflict with the admission requirements set forth in the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. §13661) and are thus subject to federal preemption [HUD Memorandum, February 10, 2011].

  Medical marijuana is defined by HUD as marijuana which, when prescribed by a physician to treat a serious illness such as AIDS, cancer, or glaucoma, is legal under State law.

  PHA Policy

  Currently engaged in is defined as any use of illegal drugs as evidenced by a felony conviction for drug-related criminal activity within the last 12 months.

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

  PHA Policy

  In determining reasonable cause, the PHA will only consider felony convictions for drug-related criminal activity within the last 12 months. The PHA will also consider evidence regarding rehabilitation.

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- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE [24 CFR 982.552(c)]

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

PHA Policy

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

- The family does not provide information that the PHA or HUD determines is necessary in the administration of the program. Prior to denial, the PHA will take reasonable efforts to contact the applicant regarding the necessary information through multiple methods of communication and through outreach to any known case workers, advocates, or other third parties working with the applicant.
- 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 deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

In instances where the PHA has a formal agreement with a referring partner agency to make available ongoing supportive services to the family, the PHA may choose not to deny assistance without conducting a case-by-case review.

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3-III.D. SCREENING

Screening for Eligibility

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

PHA Policy

The PHA will perform a criminal background check through local law enforcement for every adult household member.

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

PHA Policy

The PHA will use a national sex offender database to screen applicants for admission.

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

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

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Screening for Suitability as a Tenant [24 CFR 982.307]

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

PHA Policy

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

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

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

The PHA may not disclose to the owner any confidential information provided in response to a PHA 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)].

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners, upon their request, with the required known name and address information, at the time of the initial HQS inspection or before.

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

Evidence [24 CFR 982.553(c)]

PHA Policy

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

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

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

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

PHA Policy

The PHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents;
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in Section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully;
    - The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- The family's willingness to participate in supportive services and the availability of those services as demonstrated through a formal agreement between the PHA and a service provider.

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Removal of a Family Member's Name from the Application

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

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

PHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application.

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

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

PHA Policy

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

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3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

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

PHA Policy

The family will be notified of a decision to deny assistance in writing within 15 business days of the determination.

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

PHA Policy

If, based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the PHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to request an informal review, at which the family will be given an opportunity to dispute the accuracy and relevance of the information. A family that does not exercise their right for an informal review will be denied admission.

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

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

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

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.

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

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights and the form HUD-5382 at the time the applicant is denied.

PHA Policy

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the PHA's policies. Therefore, if the PHA makes a determination to deny assistance to an applicant family, the PHA will include in its notice of denial the VAWA information described in Section 16-IX.C of this plan, including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 10 business days.

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Documentation

Victim Documentation [24 CFR 5.2007]

PHA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with Section 16-IX.D of this plan.

Perpetrator Documentation

PHA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

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

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EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

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

  (A) In General

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

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

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

  (iii) is likely to continue indefinitely;

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

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

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(B) Infants and Young Children

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

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

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

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

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

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Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Institutions outside the United States

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

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

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

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

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

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

(B) Advisory panel

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(b) Proprietary institution of higher education

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

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

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

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

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

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

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

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

(c) Postsecondary vocational institution.

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

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

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

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

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

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Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

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

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

> Part I: Briefings and Family Obligations. This part details the program requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

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5-I.B. BRIEFING [24 CFR 982.301]

The PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

PHA Policy

Briefings will be conducted in group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the PHA may approve another adult family member to attend the briefing.

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

Notification and Attendance

PHA Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The PHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without PHA approval, will be denied assistance (see Chapter 3).

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Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

PHA Policy

When PHA-owned units are available for lease, the PHA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a PHA-owned unit.

The PHA participates in a demonstration testing the effectiveness of combining housing choice vouchers for FUP-eligible youth with assistance under the Family Self Sufficiency (FSS) program. The PHA must review the availability of this demonstration with all FUP youth during the family briefing [Notice PIH 2016-01].

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Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. The PHA must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration. The list will identify which available units are known to the PHA to be accessible.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

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

PHA Policy

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

- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- A web site with listings of units available for lease.
- PHA schedule of utility allowances.
- Landlord inspection checklist.
- Inspection suggestions.
- Mold basics information sheet.
- Landlord/tenant document checklist.
- FSS information sheet.
- Fair Housing Council information sheet.
- Information on how to fill out and file a housing discrimination complaint form.
- Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking. The VAWA information will consist of the notice in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (see Section 16-IX.C).
- "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19.

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5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

PHA Policy

Unless otherwise noted, when family obligations require the family to respond to a request or notify the PHA of a change, notifying the PHA of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the PHA, the notice must be in writing.

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that 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.

  PHA 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.

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- The family must not commit any serious or repeated violation of the lease.
- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

  PHA 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.

  PHA 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.

  PHA Policy

  The family must promptly notify the PHA in writing if any family member no longer lives in the unit or will be away from the unit for a period of 30 days or more.

- 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).
- Members of the family may engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit by members of the family.
- The family must not sublease the unit, assign the lease, or transfer the unit.

  PHA 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, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose.

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- The family must promptly notify the PHA when the family is absent from the unit.

  PHA 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.

  PHA Policy

  Fraud is defined as an act or pattern of actions done with the intent to deceive or mislead in order to gain an advantage. The act or action can include a false statement, omission, or concealment of a substantive fact. The following do not qualify as fraud:

  - An unintentional error
  - An omission or misreporting due to misunderstanding.

  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]

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Additional Requirements for Participant Families (PHA Policy)

- The family must promptly report any changes in family size.
- The family must promptly report any income if no member of the family previously had countable income.
- All family members age 18 and over must attend all scheduled appointments and must bring all requested information to these appointments at the scheduled time.
- The family may not breach an agreement to repay the PHA for amounts owed. A breach of repayment agreement is defined in Chapter 16.
- No member of the family may engage in or threaten abusive or violent behavior toward any personnel of the PHA.

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PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.

  PHA Policy

  If a child or children are projected to be out of the home for more than 180 consecutive calendar days, they will not be considered in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size.

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- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

  PHA Policy

  The PHA will assign one bedroom for a single head of household or for married or unmarried persons living together in a spousal relationship, and one bedroom for each two persons thereafter, regardless of age or sex.

  Foster children will be included in determining unit size only if they will be in the unit for more than 180 consecutive calendar days.

  The subsidy standards will apply as follows:

  1. Single persons are eligible for a studio or one bedroom voucher.
  2. A pregnant single person or a single person in possession of a certified copy of a final custody order/decree signed by a judge (without other children) may apply for assistance, and will be issued a two bedroom voucher or one of appropriate size.
  3. Married or unmarried persons expecting a child through birth, adoption, or foster care will be issued a voucher based on the anticipated household composition (with verification as above).
  4. Married or unmarried persons living together in a spousal relationship will be issued a one bedroom voucher, for example: co-heads.
  5. Two unrelated adults, both of whom meet all other eligibility requirements and need to provide support for each other because of a disability, may be issued a two bedroom voucher.
  6. Two adults related by blood will be issued a two bedroom voucher.
  7. A single head of household with one child will be issued a two bedroom voucher.
  8. A single head of household with two children will be issued a two bedroom voucher regardless of age or sex of children.
  9. A single head of household with three children will be issued a three bedroom voucher regardless of age or sex of children.
  10. A couple with one child will be issued a two bedroom voucher.
  11. A couple with two children will be issued a two bedroom voucher regardless of age or sex of children.
  12. A couple with three children will be issued a three bedroom voucher regardless of age or sex of children.
  13. A couple with four children will be issued a three bedroom voucher regardless of age or sex of children.

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5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

PHA Policy

The PHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, disability, or relationship of family members or other personal circumstances.

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

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

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5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

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

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

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

> PHA Policy
>
> Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

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

> PHA Policy
>
> Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

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

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5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

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

PHA Policy

The initial voucher term will be 120 calendar days.

For families moving to the PHA's jurisdiction under portability, the voucher expiration date will be 30 calendar days from the expiration date of the initial PHA's voucher.

The family must submit a Request for Tenancy Approval on or before the voucher expiration date, including any extensions granted by the PHA.

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

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

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

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

PHA Policy

The PHA will automatically approve an additional 60-day extension upon written request from the family. The request may be delivered in person, by e-mail, fax, or through a support agency on behalf of the family.

The PHA may approve additional extensions only in the following circumstances:

An additional extension is necessary as a reasonable accommodation for a person with disabilities

An additional extension is necessary due to reasons beyond the family's control, as determined by the PHA. The extenuating circumstances the PHA may consider in making its decision include, but are not limited to, the reasons listed below. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by the PHA

Whether family size or other special circumstances make it difficult to find a suitable unit.

Additional reasons for extensions may apply for families approved for portability (see Chapter 10).

Any request for an additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to the PHA prior to the expiration date of the voucher (or extended term of the voucher).

The PHA will decide whether to approve or deny an extension request within 15 business days of the date the request is received, and will immediately provide the family written notice of its decision.

For families moving to the PHA's jurisdiction under portability, the voucher expiration date will be 30 calendar days from the expiration date of the initial PHA's voucher. The PHA will not approve an extension beyond that date unless the initial PHA is willing to extend the billing submission deadline.

PHA Policy [Notice PIH 2024-30]

For Mainstream Vouchers, the PHA will automatically approve extensions upon request from the family and will allow for each extension to be for a minimum of 90 days. The PHA will approve the first extension request regardless of how the request is made or when it is made, whether

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written or verbal, so long as the request is made on or before the term expiration date and is consistent with applicable requirements. The PHA will, at least once after voucher issuance, notify the family prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family needs assistance with their housing search.

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

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

PHA Policy

When a Request for Tenancy Approval is received by the PHA, the term of the voucher will be suspended while the PHA processes the request.

When the PHA denies a request for tenancy, the family will be notified immediately in writing that the clock on the voucher term has restarted. The notice will include the new expiration date of the voucher.

Expiration of Voucher Term

PHA Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the PHA will require the family to reapply for assistance.

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

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

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

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

For households participating in Section 8 non-MTW programs, policies related to determination of annual income, adjusted income, family share and PHA subsidy will be governed by HUD regulations as listed in this chapter, and MTW modifications are not applicable.

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PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

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

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in Section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

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6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Temporarily absent family members	All sources of income not specifically excluded are included [HCV GB, p. 5-18]

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Temporarily Absent Family Members

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

PHA Policy

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

Absent Students

PHA Policy

When a full-time student who has been considered a family member attends school away from home, the family may either remove the person's name from the lease and from the voucher or retain the person as a family member, unless information becomes available to the PHA indicating that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been removed from the home for a period of more than 180 consecutive calendar days, the child will be counted as a family member.

Absences Due to Incarceration

PHA Policy

If any adult family member is incarcerated for a period of more than 30 consecutive calendar days, that person will no longer be considered a family member. The family must submit a document from the court or institution indicating the length of incarceration.

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Family Members Permanently Confined for Medical Reasons

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

PHA Policy

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence. If the responsible medical professional provides a determination that the person will be confined for a period of more than 180 consecutive calendar days, the person will be considered permanently absent and will not be considered a family member.

Joint Custody of Dependents

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 50 percent of the time. In 50-50% cases, the families must decide which family will claim the child or children as family members and dependents. Only one family may claim the child or children as dependents. The dependent allowance may not be shared.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

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Caretakers for a Child

PHA Policy

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

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

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6-I.C. DETERMINING ANNUAL INCOME

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

Notice PIH 2013-03 established temporary provisions allowing PHAs an option to determine participants' annual income based on actual past income received or earned within the last 12 months. This option may simplify the verification process by eliminating the need for family-provided documents, such as pay stubs, in some situations. The temporary provisions established by the Notice apply to the HCV (both tenant-based and project-based) and Moderate Rehabilitation programs and have been extended by Notice PIH 2013-26 until March 31, 2015.

Policies related to determining annual income are provided below.

PHA Policy

Program Applicants

In determining annual income for program **applicants**, the PHA will use projected future income in accordance with policies in this section.

Program Participants

Actual past income will be used to determine annual income for participant families.

The PHA will use anticipated future income to determine annual income at the family's request.

For income sources shown in the EIV system, the PHA will compare the income declared by the family to the most recent 12 months of EIV data. If there are not 12 consecutive months of income information available in EIV, or if there is a substantial difference of $200 per month or more, the PHA will revert to using projected future income and will follow current verification procedures to establish annual income (see policy on annual income projection below).

If the EIV data does not differ substantially from family-declared income, no additional verification is required and annual income is based on the EIV data.

For income sources that are not available in EIV, the PHA will request tenant-provided documents generated by a third party as verification of income. If such documents are not available, the PHA will request the information directly from a third party, using a standardized third-party form.

PHA Policy (MTW)

The following modifications to the above policy apply to Section 8 MTW programs:

- State of Oregon's UIV system data can be used in addition to, or in place of, the EIV data in the manner described above;
- Policy expiration date does not apply.

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Basis of Annual Income Projection

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

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

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

HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

PHA Policy

This policy applies in cases when the PHA determines annual income based on projected future income.

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

The PHA will obtain written and / or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

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

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

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present

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

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

This method will not be used when the future income source for a part of the 12-month period is "unknown" or "none."

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

Consideration of Interim Hardship

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

Projecting Income

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

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6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

PHA Policy

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for one year preceding admission or reexamination. The family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

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

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

PHA Policy

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

Children's Earnings

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

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Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29]. (See Eligibility chapter for a full discussion of full-time students.)

PHA Policy (MTW)

The full amount of earnings for each full-time student 18 years old or older (except for the head, spouse, or cohead) will not be counted in determining annual income for rent and subsidy calculation.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu), unless subject to inclusion under 24 CFR 5.609 (b)(9) (see Section 6-I.L)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

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State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

PHA Policy

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

The PHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

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

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

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HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

PHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in Section 6-I.E below.

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6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617, FR Notice 3/8/16]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

PHA Policy (MTW)

The earned income disallowance (EID) will be eliminated. Policies in this section on EID apply only to Section 8 non-MTW programs as required by HUD regulations.

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

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Calculation of the Disallowance

PHA Policy (MTW)

The EID exclusion will be eliminated. Policies in this section on EID exclusion apply only to Section 8 non-MTW programs as required by HUD regulations.

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID. While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Participants qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below which requires a maximum lifetime disallowance period of up to 48 consecutive months. Participants qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method" which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Original Calculation Method

Initial 12-Month Exclusion

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

PHA Policy

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

Second 12-Month Exclusion and Phase-In

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

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Lifetime Limitation

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

PHA Policy

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

Revised Calculation Method

Initial 12-Month Exclusion

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

PHA Policy

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

Second 12-Month Exclusion

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

PHA Policy

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

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

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6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

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

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

PHA Policy

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

Business Expansion

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

PHA Policy

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

Capital Indebtedness

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

PHA Policy

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

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Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

PHA Policy

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

Co-owned Businesses

PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. The family's share of income will be prorated based on the family's share of ownership.

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6-I.G. ASSETS [24 CFR 5.609(b)(3), 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated.

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

General Policies

PHA Policy (MTW)

The value of assets and the income from assets will be considered only for the purpose of determining eligibility. The value of assets and the income from assets will not be used in determining annual income for rent and subsidy calculation, except as described in Section 6-I.H.

Policies in this section on determining the value of assets and the anticipated income from assets for rent and subsidy calculation apply only to Section 8 non-MTW programs.

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

PHA Policy

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

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Valuing Assets

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

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

PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

PHA Policy

The PHA will review the passbook rate annually, in February of each year. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the Savings National Rate established by the Federal Deposit Insurance Corporation (FDIC). If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Changes to the passbook rate will take effect on April 1 following the February review.

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Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

> PHA Policy
>
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
>
> If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

> PHA Policy
>
> The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

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

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

Separation or Divorce

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

PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

PHA Policy

Families must declare at initial certification and each annual recertification all assets that have been disposed of for less than fair market value or declare that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

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Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

PHA Policy

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

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

PHA Policy

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

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Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

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

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 6-I.F
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25].

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset.

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Trusts

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

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in Section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see Section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

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Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

PHA Policy

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

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

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

PHA Policy

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

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

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6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, trust funds, rental income and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV GB, p. 5-14].

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

PHA Policy

If a family reports an interim income decrease (e.g., a family member loses a job) and the family applied for a periodic benefit (e.g., unemployment or welfare assistance), the PHA will count the periodic benefit as anticipated income. If the family later reports to the PHA that the expected income was never received, the PHA will remove the periodic payments from family's income retroactively to the date the expected payments were counted.

When a delayed-start payment is received and reported during the period in which the PHA is processing a regular reexamination, the PHA will treat the lump-sum payment in one of the following ways:

1. Prospective: Include the entire lump sum amount in the annual income for the regular review. If an interim reexamination is completed for any reason during the 12 months following the regular review, include in income pro-rated amount of the lump-sum income for the remaining months.
2. Retroactive: Adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.

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Treatment of VA Service-Related Disability Payments [Docket No. FR-6476-N-01]

- Payments received by participants from all Veterans Affairs service-connected benefits. While the VA service-connected disability benefits are excluded for purposes of determining income eligibility, **they are included for purposes of calculating the total tenant payment, housing assistance payment, and family share**.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

  PHA Policy

  The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see Section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

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6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in Section 6-I.H and the discussion of lump-sum receipts in Section 6-I.G.)

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6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

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

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

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

Imputed Income

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

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

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

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6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

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

PHA Policy

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

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

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

PHA Policy

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

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

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6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9), Notice PIH 2015-21]

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

PHA Policy (MTW)

Student financial assistance will be considered only for the purpose of determining eligibility. Student financial assistance will not be included in the determination of annual income for rent and subsidy calculation.

Policies in this section on inclusion of financial assistance in annual income for rent and subsidy calculation apply only to Section 8 non-MTW programs as required by HUD regulations.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9), FR 4/10/06, Notice PIH 2015-21]

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

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

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

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To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child, institution of higher education,* and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
    - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
    - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

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Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

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

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

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6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]

  PHA Policy

  The PHA will also exclude documented reparation payments made by the U.S. government to Native Americans or to those of Japanese descent who were interred during the World War II era.

- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]

  PHA Policy (MTW)

  The full amount of adoption assistance payments will not be counted in determining annual income for rent and subsidy calculation.

- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

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

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

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

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

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

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

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

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

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

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

PHA Policy (MTW)

All deductions will be eliminated. Policies in this part related to deductions from annual income apply only to Section 8 non-MTW programs.

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Anticipating Expenses

PHA Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

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6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

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

PHA Policy

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

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

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Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

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

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

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6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' earned incomes.

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Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

PHA Policy

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

Eligible Attendant Care

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

PHA Policy

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

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

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

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Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

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

Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

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

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

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6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

PHA Policy

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

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

PHA Policy

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

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Furthering Education

PHA Policy

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

Being Gainfully Employed

PHA Policy

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

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Earned Income Limit on Child Care Expense Deduction

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

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

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

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

PHA Policy

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

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Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

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Necessary and Reasonable Costs

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

PHA Policy

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

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

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PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

PHA Policy (MTW)

Policies in this section on rent and subsidy calculation apply only to Section 8 non-MTW programs as required by HUD regulations. MTW policies on rent and subsidy calculation are described in Section 6-III.C.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in Section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

PHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

PHA Policy

The minimum rent for this locality is $0.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see Section 6-III.F.)

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PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see Section 6-III.F.)

Utility Reimbursement [24 CFR 982.514(b)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

PHA Policy

The PHA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

PHA Policy (MTW)

Policies in this section on financial hardships affecting minimum rent apply only to Section 8 non-MTW programs as required by HUD regulations. MTW policies on financial hardships are described in Section 6-III.E.

PHA Policy

The financial hardship rules do not apply in this jurisdiction because the PHA has established a minimum rent of $0.

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6-III.C. OVERVIEW OF MTW RENT AND SUBSIDY CALCULATIONS [MTW Plan]

The PHA's rent reform initiative has established a rent and subsidy calculation methodology that distinguishes between two household types: seniors / people with disabilities and the work-focused households. This section explains how rent and subsidy are determined for each household type.

A senior person is a person who is at least 55 years old.

A person with disabilities is a person who meets the HUD definition of a person with disabilities (see Chapter 3).

Senior and people with disabilities household is a household in which the head, spouse, or cohead is a senior or a person with disabilities.

VASH voucher households

Regardless of age / disability, households participating in HUD-VASH program authorized by 2008 Appropriation Act meet the definition *of Senior and People with Disabilities Household* in regard to rent calculation under Rent Reform.

Emergency Housing Voucher (EHV) households

Regardless of age / disability, households participating in EHV program meet the definition *of Senior and People with Disabilities Household* in regard to rent calculation under Rent Reform.

Work-focused household is a household in which neither the head, spouse, nor cohead is a senior or a person with disabilities. All households that do not meet the definition of a senior and people with disabilities household are considered work-focused households.

Rent and subsidy amounts are determined based on a household type and year of participation in the rent reform. Year 1 begins at the first full regularly scheduled recertification or initial certification effective on or after April 1, 2012.

TTP Formula

The TTP is defined as a percentage of gross monthly income (annual income, as defined in Part I, divided by 12), rounded to the nearest dollar. The percentage used to determine the TTP depends on the household type and year of the household's participation in the rent reform.

For senior and people with disabilities households, the TTP is defined as 28.5 percent of the gross monthly income beginning in August 2013 (previously 27.5 percent of the gross monthly income). The same percentage is used to determine TTP throughout the household's participation in the rent reform.

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For work-focused households, the TTP is defined based on the year of the household's participation in the rent reform:

- For years 1 and 2, the TTP is 29.5 percent of gross monthly income beginning in August 2013 (previously 27.5 percent of gross monthly income)
- For years 3 and 4, the TTP is 29.5 percent of gross monthly income beginning in August 2013 (previously 29 percent of gross monthly income)
- For years 5 and greater, the TTP is 31 percent of gross monthly income.

Minimum Tenant Rent

Minimum tenant rent is the minimum amount of rent paid by the family.

Beginning in November 2021, the minimum tenant rent is $0 regardless of the household type and year of the household's participation in the rent reform.

Previously, the amount of minimum tenant rent was established based on the household type and year of the household's participation in the rent reform as described below.

For senior and people with disabilities households, the minimum tenant rent is $0 throughout the household's participation in the rent reform.

For work-focused households, the minimum tenant rent amount depends on the year of the household's participation in the rent reform:

- For years 1 and 2, the minimum tenant rent is $0
- For years 3 and 4, the minimum tenant rent is $100
- For years 5 and greater, the minimum tenant rent is $200.

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PHA Subsidy, Tenant Rent and Utility Reimbursement

Beginning in November 2021, the tenant rent and PHA subsidy amounts will be determined as follows for all household types:

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard minus TTP or (2) the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

Previously, the tenant rent and PHA subsidy amounts were determined as described below.

For seniors and people with disabilities households, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard minus TTP or (2) the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For work-focused households, the PHA subsidy and tenant rent to owner will be determined as follows:

<u>For years 1 and 2</u>, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard minus TTP or (2) the gross rent minus TTP.

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For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For years 3 and greater, a maximum monthly HAP for a family is equal to the lower of (1) the applicable payment standard minus TTP or (2) the gross rent minus TTP.

The tenant rent to owner is the greater of the following amounts:

- Rent to owner minus maximum monthly HAP for a family, or
- Minimum tenant rent plus, if applicable, the amount by which the rent to owner exceeds the applicable payment standard

For mixed families, the tenant rent will be increased by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of the following amounts:

- Maximum monthly HAP for a family, or
- Rent to owner minus tenant rent to owner

Utility reimbursements to the family are not allowed.

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Family Share and Tenant Rent to Owner

The family share (the amount that a family pays for rent and utilities) will never be less than the family's TTP but may be greater than the TTP depending on any of the following factors:

- Rent charged for the unit the family selects
- Minimum tenant rent for work-focused households in years 3 and greater
- PHA subsidy reduction for mixed families.

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP and / or the minimum tenant rent, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 50 percent of the family's monthly gross income. The PHA will use the existing income verification on file for this determination in accordance with policies in Section 10-I.C. The PHA will not require a reexamination to verify income for this purpose unless the family requests it. (For a discussion of the application of payment standards, see Section 6-III.F.)

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6-III.D. AUTOMATIC RENT CAPS FOR PHASE-IN HOUSEHOLDS [MTW Plan]

Certain households that were participating in the HCV program on March 31, 2012 and were receiving an adjustment to annual income at their most recent review effective prior to April 1, 2012 as a result of (1) child care expenses or (2) medical / disability assistance expenses or (3) having four or more dependents, will receive an automatic phase-in adjustment to their rent at the time the rent reform is implemented under the following circumstances:

The household has		The rent increase is
Qualifying out-of-pocket childcare expenses above $2,000, or	***AND***	More than $10 per month for seniors and people with disabilities households
Qualifying out-of-pocket medical expenses above $2,000 per year, or		More than $25 per month for work-focused households
Four or more dependents		

Households who meet the above criteria will have their rent increase capped for the twelve-month period beginning April 1, 2012 by the following amounts:

- $10 per month for seniors and people with disabilities households
- $25 per month for work-focused households.

A household that receives an automatic rent cap under the phase-in policy may request a hardship accommodation if they feel the phase-in does not go far enough in addressing their housing stability.

The phase-in accommodation can be renewed annually through the hardship policy described in Section 6-III.E for as long as the circumstances continue.

Households not Qualified for an Automatic Phase-in Adjustment

If a household participating in the HCV program on March 31, 2012 did not qualify for an automatic phase-in adjustment based on the above criteria but would have a rent increase of more than $100 at the time the rent reform is implemented, the household's rent increase will be capped at $100 for the twelve-month period beginning April 1, 2012.

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6-III.E. FINANCIAL HARDSHIPS AFFECTING MTW HCV PROGRAMS [MTW PLAN]

All households participating in an MTW eligible program may submit a hardship exemption request.

Households may qualify for a hardship exemption if one of the following criteria is met:

1. Households may qualify for a hardship exemption if the total shelter costs exceed 50 percent of the gross monthly income used to determine household's rent and subsidy. Total shelter costs are defined as rent and utilities paid by the household.

   While all households qualify to request a hardship exemption, generally those having the following criteria will not qualify for an exemption:

   a. Amount of subsidy reduction for mixed families

   b. Additional amount a household has chosen to pay above the payment standard for an HCV assisted unit.

2. Households that were participating in the PHA's MTW programs on March 31, 2012 and qualified for an automatic phase-in adjustment based on the criteria described in Section 6-III.D may qualify for a hardship exemption if the circumstances that qualified them for an automatic phase-in continue.

   These phase-in households may qualify for a hardship exemption without meeting the requirement to pay more than 50 percent of gross monthly income toward shelter costs.

   These phase-in households will be required to provide documentation showing that the circumstances that originally qualified them for an automatic phase-in have continued.

   Households receiving zero assistance may not qualify to receive a rent reduction even if the circumstances that qualified them for an automatic phase-in continue. However, if the household experiences a change in circumstances that would result in a HAP payment to owner within the 180-day period, the continuing phase-in hardship and rent reduction will be reviewed at that time.

Applying for a Hardship Exemption

All hardship exemption requests must be made in writing and submitted to the appropriate PHA office. Requests must be received by the 15th of each month to be eligible for a revised rent effective on the first of the next month. Hardship exemption requests / adjustments will not be retroactive.

Only hardships expected to last longer than 90 calendar days will be considered.

Households applying for a hardship exemption are strongly encouraged to include the following documents / verifications with their request, as applicable:

- For households who have recently lost earned income – proof of application for unemployment;
- For households with children – proof of application for TANF and / or child support;

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- Proof of application through WorkSource;
- Proof of application / participation in one of the PHA's self-sufficiency programs;
- Proof of application for low-income energy assistance through an external community agency.

Determination of Hardship Exemptions

A hardship committee with representatives from the PHA staff will review hardship requests on a monthly basis. The committee has the authorization to implement an agreed upon exemption / remedy. If the committee cannot reach consensus regarding a hardship request, the majority vote will rule.

The committee will consider each household's circumstances on a case-by-case basis. The committee will have a menu of remedies to reduce a qualifying household's rent burden. These choices may include, but are not limited to, the following:

- Set tenant rent to $0 for a specific period of time. This option would not include a utility reimbursement to the family.
- Extend a utility reimbursement for a specific period of time.
- Cap total shelter costs to not exceed 50 percent of gross monthly income or other appropriate percentage for a specific period of time.
- Reduce the amount of tenant rent.
- Remove minimum tenant rent for a specific period of time.
- Any combination of the above remedies.

The hardship exemptions will be granted to eligible households for a minimum of 3 months and a maximum of 12 months. Households may apply for another exemption once their exemption expires.

In cases when the committee recommends denial of a hardship request, the Director or Assistant Director of Rent Assistance or designee will make the final determination.

In extraordinary cases, the hardship committee may make a final recommendation to the Director or Assistant Director of Rent Assistance who will have final approval when circumstances call for a deviation from hardship policy.

Notice of Hardship Exemption or Denial of Exemption

In cases when the committee grants a hardship exemption, the PHA will notify the owner and the family of the effective date, the new HAP payment and tenant rent, and the expiration date of the exemption.

If the hardship exemption is denied, the family will be notified of a decision in writing within 15 business days of the determination.

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Additional Information for Phase-in Households

After the first 12 month phase-in (April 1, 2012 – March 31, 2013) households that qualified for phase-in due to high medical / childcare expense or because of a large number of dependents and request a hardship exemption will be required to provide documentation that circumstances still exist (i.e. receipts for medical bills, receipts for childcare payments, etc.).

Based on the amount of receipts provided and / or the number of dependents still in the household, the total amount of "lost" allowances / deductions will be calculated and the following chart will be used to assess the rent reduction:

Total Loss of Allowances / Deductions	Amount of Rent Reduction
$10,000 +	$200
$9,000- $9,999	$175
$8,000- $8,999	$150
$7,000- $7,999	$125
$6,000- $6,999	$100
$5,000- $5,999	$75
$4,000- $4,999	$50
$3,000- $3,999	$25
$1,920- $2,999	$0

**Table previously posted was incorrect. This amended table reflects correct rent reduction amounts (posted effective January 2013).*

A household's rent amount may result in a credit or utility reimbursement payment however the amount the households receive will never be more than the utility allowance for their unit.

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6-III.F. APPLYING PAYMENT STANDARDS [24 CFR 982.505, 24 CFR 982.503(b)]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

> PHA Policy (MTW)
>
> PHA policy on determining a monthly housing assistance payment (HAP) for a family is described in Section 6-III.C.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

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Changes in Payment Standards

Decreases [FR Notice 11/16/16]

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the PHA is not required to reduce the payment standard amount used to calculate subsidy for families under HAP contract for as long as the HAP contract remains in effect.

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract during the HAP contract term, the initial reduction to the payment standard amount used to calculate subsidy for the family may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable payment standard amount on the PHA's voucher payment standard schedule. The PHA may further reduce the payment standard amount for families during the term of HAP contract, provided the subsequent reductions continue to result in a payment standard amount that meets or exceeds the normally applicable amount on the PHA's voucher payment standard schedule. In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced during the term of the HAP contract before the effective date of the change.

The PHA may establish different policies for designated areas within their jurisdiction (e.g., for different zip code areas), but the PHA's policy on decreases to payment standards during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of the decrease in the payment standard within that designated area.

> PHA Policy (MTW)
>
> The PHA established a new payment standards methodology allowing the PHA to broaden the 'base range' to 80 – 120 percent of the FMR and set payment standards for nine separate neighborhoods to mirror the local rental market. The establishment and revision of payment standard schedule are covered in Chapter 16.
>
> ***Changes in Payment Standards due to Transition to the New Methodology***
>
> The new methodology results in both increases and decreases from previous payment standards. During the term of HAP contract, the changes in payment standard amount attributable to transition to the new methodology will be applied for current participants as follows:
>
> If the payment standard is increased during the term of HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.
>
> If the payment standard is decreased during the term of HAP contract, the family will retain their current payment standard unless they move.

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Changes in Payment Standards after Transition to the New Methodology

During the term of HAP contract, the changes in payment standard amount not attributable to transition to the new methodology will be applied for current participants as follows:

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next regular reexamination [HCV GB, p. 7-8].

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Changes in Family Unit Size

PHA Policy (MTW)

Changes in Family Unit Size due to a Change in Family Composition

The PHA will conduct a reexamination to account for changes in family / household composition (increases or decreases) at the time the changes are reported. (Changes reported during regular reexamination process will not be processed separately but will be included in a regular reexamination in accordance with policies in Chapter 11).

Changes in family / household composition may result in a change in the family unit size (which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards) and / or the applicable payment standard for the family (based upon the lesser of the family unit size or the size of the dwelling unit rented by the family). Changes in family unit size will be applied as described below.

Increases in family unit size

Irrespective of any increase or decrease in the payment standard, if the family unit size **increases** during the HAP contract term due to addition of new household members, the new family unit size will be used to determine the payment standard for the family (based upon the lesser of the family unit size or the size of the dwelling unit rented by the family) at the same time the new household members are added.

Decreases in family unit size

Irrespective of any increase or decrease in the payment standard, if the family unit size **decreases** during the HAP contract term due to departure of a household member, the new family unit size will be used to determine the applicable payment standard for the family (based upon the lesser of the family unit size or the size of the dwelling unit rented by the family) beginning at the earlier of:

- The family's first regular reexamination following the decrease in family unit size; or
- The later of (1) 120 days after the decrease in family unit size or (2) twelve months since the effective date of HAP contract for the assisted unit.

If the change in family unit size results in a different payment standard for the family (based upon the lesser of the family unit size or the size of the dwelling unit rented by the family), the PHA will conduct a reexamination to apply the new payment standard with the effective date as described above. The new payment standard will be the payment standard in place as of the effective date of the reexamination. The intent of this policy is to give the family time to consider impact of the change in family composition on the subsidy amount.

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Example – Applying the Payment Standard for a Decrease in Household Size

A family had a three-bedroom voucher (based upon the PHA's subsidy standards) and rented a three-bedroom apartment. After the family had been receiving housing assistance from the PHA for the apartment for two years, a family member left the household. The family resides in the same three-bedroom apartment and now qualifies for a two-bedroom voucher (based upon the PHA's subsidy standards). The family's next regular reexamination is scheduled in one year.

The PHA will conduct two reexaminations:

First reexamination will be conducted at the time the change in family composition was reported to remove the family member from the household;

Second reexamination will be effective 120 days after the family member left the household, and the two-bedroom payment standard will be used to calculate subsidy for the family (based upon the lesser of the family unit size or the size of the dwelling unit rented by the family).

Changes in Family Unit Size due to a Change in the PHA's Subsidy Standards

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

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family in accordance with policies in Section 16-II.B.

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6-III.G. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the family's voucher bedroom size as determined under the PHA subsidy standards. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

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.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

6-III.H. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

PHA Policy (MTW)

The PHA simplifies the proration of subsidy for mixed families so that a flat monthly reduction in assistance is applied to the household, regardless of the number of ineligible family members. The PHA will determine the proration amount after reviewing agency rents and payment standards based upon funding availability.

The PHA will reduce the monthly PHA subsidy for a mixed family by $1 per family beginning in November 2020 (previously the monthly proration amount was fixed at $100 per family).

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EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

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(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

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

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term “assistance” mean?

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

[1] Text of 45 CFR 260.31 follows.

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(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

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EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

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

(8) (i) Amounts received under training programs funded by HUD;

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

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

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

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

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

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(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts;

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

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
[See Section 6-I.M for a list of benefits that qualify for this exclusion.]

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EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

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EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

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(c) *Disallowance of increase in annual income—*

(1) *Initial twelve month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and phase-in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

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EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

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(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.
(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.
(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.
(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

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Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2018-18]

INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

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

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

> PHA Policy (MTW)
>
> The PHA will use its equivalent form in place of form HUD-9886, Authorization for Release of Information/Privacy Act Notice.

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Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

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7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2018-18]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

PHA Policy

Any documents used for verification generally must be dated within 60 calendar days of the PHA request date. Original documents are preferred. The documents must not be damaged, altered or in any way illegible.

The PHA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the PHA would accept the most recent report.

Print-outs from web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy, annotate the copy with the date the original was viewed, and sign the copy.

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

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Income Verification at Admission

PHA Policy (MTW)

The PHA may consider self-certification the highest form of income verification at admission. Self-certification may be accepted as documentation of reported income, assets, expenses and known pending income at admission.

Applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. Original documents are preferred. The documents must not be damaged, altered, or in any way illegible. Printouts from webpages are considered original documents.

Third-party confirmation of income may be voluntarily submitted within 60-days prior to admission or voucher assistance.

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

When available, the PHA will use the EIV tool to compare and confirm income reported from self-certification. The PHA may require a repayment plan as outlined in Chapter 16 or propose termination as outlined in Chapter 12 if any material discrepancies arise. The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14.

If the PHA later determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

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File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2018-18].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

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Up-front Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

PHA Policy

The PHA will obtain income and income validation tool (IVT) reports for regular reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the regular reexamination process. Income reports may be used in the calculation of annual income, as described in Section 6-I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information are described in Section 6-I.C and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, social security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports (if available) will be retained in participant files with the applicable regular or interim reexamination documents.

When the PHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

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EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-24].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

PHA Policy

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

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7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2018-18]

When the PHA determines annual income based on actual past income information available in EIV in accordance with policies in Chapter 6, the PHA is not required to obtain third-party documentation of that income (e.g., pay stubs, payroll summary report, unemployment monetary benefit notice) [Notice PIH 2013-3].

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

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

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

> PHA Policy (when third-party verification is required)
>
> Third-party documents provided by the family must be dated within 60 days of the PHA request date.
>
> Due to the PHA policy on conducting initial eligibility reviews and subsequent reexaminations by mail, copies of third-party documents provided by the family are acceptable.
>
> The PHA may reject documentation provided by the family if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.
>
> As verification of earned income, the PHA will require the family to provide pay stubs covering the 60-day period prior to the PHA's request.

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Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

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

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

PHA Policy

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

In cases when third-party verification form is hand-carried by the family, the PHA will make a follow-up telephone call to verify the accuracy of the information provided. The PHA will record on the verification form the name and title of the person contacted, the date and time of the conversation, the telephone number used, and the facts provided.

Oral Third-Party Verification [Notice PIH 2018-18]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

PHA Policy

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

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When Third-Party Verification is Not Required [Notice PIH 2018-18]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

If the family cannot provide third-party documents, the PHA will not pay the service charge required to obtain third-party verification, and a self-certification will be acceptable as the only means of verification.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Self-certification of Assets [Notice PIH 2013-3 and FR-6476-N-01]

Notice PIH 2013-03 established temporary provisions allowing PHAs to accept family self-certification of assets when the total net value of the family's assets does not exceed $5,000. The option reduces administrative burden by eliminating the time-consuming verification process for assets which have minimal impact on the family's subsidy level. The temporary provisions established by the Notice apply to the HCV and Moderate Rehabilitation programs and have been extended by Notice PIH 2013-26 until March 31, 2015.

The Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program Docket No. FR-6476-N-01 requires that at admission for the HUD-VASH program, PHAs must accept a self-certification by the family that the family's total assets are equal to or less than $50,000, adjusted for inflation, and that the family does not have any present ownership interest in real property, without taking steps to verify the accuracy of the declaration.

The family's self-certification on application and reexamination forms may be accepted when all adult family members sign the applicable form.

The PHA must continue to report all assets on Form HUD-50058, including assets of families with net assets which do not exceed $5,000.

If the family's assets exceed $5,000 in net value, the PHA must verify the assets according to existing PHA policy. For VASH, if the family's assets exceed $50,000 the PHA will verify assets.

PHA Policy (MTW)

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This policy applies to the programs referenced above and on a permanent basis for Section 8 MTW programs.

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For families whose assets do not exceed $50,000 in net value, the PHA will accept family self-certification of asset value and anticipated income.

The PHA may require additional verification if necessary to document that assets do not exceed $50,000 in net value.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

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

PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

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

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PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA will require families to furnish verification of legal identity for each household member. Acceptable forms of verification include, but are not limited to, the following:

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Naturalization papers Current, valid driver's license or Department of Motor Vehicles identification card Current, valid state-issued photo ID U.S. military discharge (DD 214) Current, valid U.S. passport Current, valid employer identification card	Certificate of birth Adoption papers Court-awarded custody agreement Health and Human Services ID Certified school records

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

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a participant.

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7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24 and Notice PIH 2024-17]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

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

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

PHA Policy

Due to the PHA policy on conducting initial eligibility reviews and subsequent reexaminations by mail, copies of documents provided by the family are acceptable.

The PHA may reject documentation provided by the family if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that a document provided by the family is not acceptable, the PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

The PHA will first attempt to obtain a valid SSN card issued by the Social Security Administration (SSA), or an original document issued by a federal or state government agency that contains the name and SSN of the individual, along with other identifying information of the individual.

If the applicant is unable to provide that information, the PHA will accept as verification of the individuals SSN the applicant's self-certification of SSN and at least one third-party document. The PHA will document why the other SSN documentation was unavailable.

The PHA will follow the SSN verification hierarchy and use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSN and at least one third-party document, including a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in absence of other

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documentation.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA may grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

PHA Policy

In case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

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If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the family's failure to comply was due to unforeseen circumstances and was outside of the family's control.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

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7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members.

PHA Policy

If an official record of birth cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded).

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

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Absence of Adult Member

PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). If the documentation is not available, certification by the head of household will be accepted.

Foster Children and Foster Adults

PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

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7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

PHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Exhibit 3-2 in Chapter 3).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Chapter 3, and was receiving HCV assistance as of November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

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Independent Student

PHA Policy

The PHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or verifying the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Requesting and obtaining a written certification from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see Section 3-II.E).

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

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Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

PHA Policy

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

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7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

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Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in Section 7-II.C of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

PHA Policy

The preferences offered by the PHA are listed in Chapter 4. Third-party verification of all preferences will be completed prior to granting the preference and issuance of a voucher. The PHA will verify preferences as follows:

1. Families that are currently served in another permanent housing assistance program administered by the PHA when the family is experiencing domestic violence, dating violence, sexual assault or stalking, and is in significant danger and must relocate

   The PHA will require the following verification:

   HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation), or alternate documentation allowed by form HUD-5382;

   Written certification from a service provider verifying the participant is in significant danger and must relocate which will likely result in the need for the participant to receive a tenant-based voucher; and

   Program transfer authorization form completed and signed by the Director of Housing Choice Vouchers, Director of Homeless Initiatives, or Housing Program Manager

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2. Families that are currently served (or have been certified, or have reached the top of the waiting list) in another permanent housing assistance program administered by the PHA when the other program is unable to appropriately house and serve the family

   The PHA will require the following documentation:

   Documentation of the reason(s) why family cannot be served by another permanent housing assistance program; and

   Approval of both Rent Assistance director and the director of the other program.

   When a preference has been granted based on a specific need (i.e. a unit with accessible entrance), the Section 8 subsidy may only be used for a unit which cures the condition for which the preference was granted.

3. Youth that are currently served in the Family Unification Program (FUP) administered by the PHA whose FUP voucher is expiring due to the 36-month statutory time limit, or youth that are currently served in the FUP rental assistance extension program administered by the PHA

   The PHA will require the following verification:

   Verification of disability in accordance with policies in Section 7-II.F of this chapter; and

   Written referral from the current FUP case manager of record (DHS, Homeless Youth Continuum, or another agency) certifying that the youth will have a lack of adequate housing as a result of the expiration of FUP voucher or FUP rental assistance extension and needs a tenant-based voucher to ensure uninterrupted housing assistance.

4. Families that are currently served by the PHA in a Continuum of Care funded, permanent supportive housing project and no longer need supportive services to maintain housing stability.

   The PHA will require the following verification:

   Written certification from Continuum of Care program Sponsor Agency verifying the family does not require permanent supportive housing to maintain housing stability;

   Written certification from Continuum of Care participant family indicating that the family voluntarily chooses to pursue the preference and application for a Housing Choice Voucher; and

   Program transfer authorization signed by Director of Homeless Initiatives and Director of Housing Choice Voucher Program.

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5. Families exiting homelessness that are currently served by Multnomah County's Homeless Family System of Care

   The PHA will require the following verification:

   Written referral from the partner agency, including a certification that the family was selected and referred to the PHA in accordance with criteria outlined in the Memorandum of Understanding (MOU) between the partner agency and the PHA.

6. Families exiting homelessness that include a veteran experiencing homelessness and are ineligible for HUD – Veterans Affairs Supportive Housing (HUD – VASH) voucher

   The PHA will require the following verification:

   Written referral from the partner agency, including a certification that the family was selected and referred to the PHA in accordance with criteria outlined in the MOU between the partner agency and the PHA.

7. Families at risk of homelessness due to increasing rents that are currently served by Northwest Pilot Project or the Urban League of Portland

   The PHA will require the following verification:

   Written referral from the partner agency, including a certification that the family is at risk of displacement due to rent increases and housing affordability issues, and the family was selected for referral in accordance with criteria outlined in the partnership agreement.

8. Families with a non-elderly person with disabilities who is transitioning out of institutional or other segregated settings

   The PHA will require the following verification:

   Verification of age and disability in accordance with policies in this chapter; and

   Third-party verification from institutional or other segregated settings or from another service provider describing the setting and confirming that the non-elderly person with disabilities has a plan to exit the setting within three months.

9. Families with a member having a documented terminal illness with life expectancy of 12 months or less

   The PHA will request third-party verification from a medical professional that the family member is terminally ill with life expectancy of 12 months or less.

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10. Families residing in Multnomah County

In order to verify that an applicant resides in Multnomah County, the PHA will require rent receipts, leases, utility bills, school records, a written statement from the household with whom the family is residing, or a written certification from a homeless service organization, shelter, or a social service agency.

In order to verify that an applicant works in Multnomah County, the PHA will verify employment through the Oregon State online system. The PHA will require third-party verification from the employer when it is not possible to verify it through the state system.

In order to verify that an applicant has been hired to work in Multnomah County, the PHA will require third-party verification from the employer.

In order to verify that an applicant is a graduate of, or active participant in, education or training program in Multnomah County, the PHA will require third-party verification from the agency or institution providing the education or training of active participation or graduation within the past year from the program designed to prepare individuals for the job market.

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

Employment, education, or training programs would include active participation in any of the following: GED or high school diploma, employment readiness programs, short term or long term training programs that will result in a certification; or a degree-seeking program at a college or university with a minimum enrollment requirement of six credit hours. The previous list is not inclusive of all eligible employment, education, or training programs.

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PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Wages

PHA Policy

For wages other than tips, the PHA will require the family to provide pay stubs covering the 60-day period prior to the PHA request.

Tips

PHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

PHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to

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provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

PHA Policy

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will help the participant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

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7-III.D. ALIMONY OR CHILD SUPPORT

PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 60 days prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts (a record of payments from a state or local entity for the past 12 months is acceptable)

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

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7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

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7-III.G. RETIREMENT ACCOUNTS

PHA Policy

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of document that will be accepted depends upon the family member's retirement status.

Before retirement, the PHA will accept a document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the PHA will accept a document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the PHA will accept a document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or adoption assistance payments).

PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

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The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

PHA Policy (MTW)

Families have the option not to report income that is not used in rent calculation, such as foster care payments.

7-III.I. ZERO ANNUAL INCOME STATUS

PHA Policy

The PHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, social security/SSI benefits, earnings, etc., are not being received by families claiming zero annual income.

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7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

PHA Policy (MTW)

Student financial assistance will be considered only for the purpose of determining eligibility. Student financial assistance will not be included in the determination of annual income for rent and subsidy calculation.

Policies in this section on inclusion of financial assistance in annual income for rent and subsidy calculation apply only to Section 8 non-MTW programs as required by HUD regulations.

PHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request verification of the student's tuition amount.

If the PHA is unable to obtain third-party verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

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7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

PHA Policy

If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The parents will be required to certify to their income under penalty of perjury. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

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PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Section 6-II.B for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student.

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Section 6-II.C for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

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7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in Section 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

PHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

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Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Section 7-IV.A of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Section 6-II.D for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years.

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7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in Section 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

PHA Policy

The PHA will accept written third-party documents provided by the family.

If family-provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

Auxiliary Apparatus

PHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in Section 7-II.F above).
- The expense permits a family member, or members, to work (as described in Section 6-II.E).
- The expense is not reimbursed from another source (as described in Section 6-II.E).

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Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See Section 7-II.F).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Section 6-II.E). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

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7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Section 6-II.F. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See Section 7-II.C).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

PHA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

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Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

Information to be Gathered

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

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Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Section 6-II.F.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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EXHIBIT 7-I: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]	
• **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. • Except for persons 62 or older, all noncitizens must sign a verification consent form. • Additional documents are required based upon the person's status.	
Elderly Noncitizens • A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
All other Noncitizens • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*	

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Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in Section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

  PHA Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.

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- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family 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 [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)].

  PHA Policy

  If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will request documentation in accordance with 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 family or family member will suffice. In such cases the PHA will document the waiver in the family's file.
- The PHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

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10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance. The PHA must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves to a higher cost unit based on insufficient funding [24 CFR 982.354(e)(1)]. Notice PIH 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

PHA Policy

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; (c) the PHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS, the owner failed to renew the lease, etc.), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area and the receiving PHA is not absorbing the family into their program.

For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family). The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open

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requests to move when funds become available as it uses for notifying families on the waiting list (see Section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if the PHA has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

PHA Policy

If the PHA has grounds for denying or terminating a family's assistance, the PHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. Some of the circumstances when the PHA may deny a permission to move are:

- The family currently owes rent or other amounts to the PHA or to another PHA. If a family wishes to move, the family must pay the balance in full. Amounts owed are subject to the local statute of limitations unless owed under a judgment.
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The owner has commenced an action to evict the family or has obtained judgment or other process allowing the owner to evict the family, and the cause of eviction is a serious or repeated violation of the lease. If legal proceedings are filed as a result of these actions, a move will be put on hold until a legal determination is made by the court.
- Any member of the family has committed any violations of family obligations or any serious or repeated violations of the lease that are grounds for denying or terminating a family's assistance.

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Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see Section 10-I.A). In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

PHA Policy

The PHA will deny a family permission to make more than one elective move during any 12-month period, with the exception of a longer initial lease term in excess of 12 months (a move will not be approved if it would violate the lease term). This policy applies to all assisted families residing in the PHA's jurisdiction.

The PHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the PHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

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10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)]. The notices must be in writing [24 CFR 982.5].

Approval

PHA Policy

Upon receipt of a family's notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies set forth in Sections 10-I.A and 10-I.B. The PHA will notify the family in writing of its determination within 15 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will require a declaration of current family composition. The PHA will not perform a reexamination of income or assets unless the move coincides with the family's regularly scheduled reexamination or the family requests it. If a family composition changed and a new family member is added, the PHA will conduct a reexamination to determine any new income associated with the additional family member.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will issue a new voucher within 15 business days of the PHA's written approval to move. Families will be required to attend an appointment. No briefing is required for these families. The PHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the PHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

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Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PHA Policy

When a family moves out of an assisted unit, the PHA will make a housing assistance payment to the owner through the move-out date. If a family moves out of an assisted unit on a day other than the last day of the month, the PHA will prorate the monthly housing assistance payment.

When a family moves out of an assisted unit, and the owner has received a proper notice to vacate, the PHA will not make any housing assistance payment to the owner for any period after the date the family moves out.

The PHA will adjust the prorated payment to the landlord upon the receipt of written request in the event the move-out date is not adhered to.

When a family moves from an assisted unit with continued tenant-based assistance, the PHA may allow an overlap of up to 14 calendar days between the last housing assistance payment for the old unit and the first assistance payment for the new unit if necessary to successfully lease up the family.

PHA Policy (MTW)

In cases when a vacancy was unexpected or unforeseen (such as death or skip), and the owner has not received a proper notice, the PHA will make the housing assistance payment to the owner for an additional one-month period after the date the family moves out. The PHA will not bill the family for the amounts paid to the owner in accordance with policies in this section for an additional one-month payment to the owner **after** the date the family moved out.

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PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA.** The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in Section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in Section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

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10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected as the receiving PHA. In cases where the family prefers not to select the receiving PHA, the initial PHA selects the receiving PHA on behalf of the family [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify the local HUD office within 10 business days of the determination to deny the move [24 CFR 982.354(e)].

> PHA Policy
>
> In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the PHA will follow the policies established in Section 10-I.B of this chapter. If a PHA denies a family permission to move due to insufficient funding, the PHA will notify the local HUD office in writing within 10 business days of the determination to deny the move.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

> PHA Policy (MTW)
>
> All applicant families are required to live in the PHA's jurisdiction with voucher assistance 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.

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Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

PHA Policy

The PHA will determine whether a participant family may move out of the PHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in Sections 10-I.A and 10-I.B of this chapter. The PHA will notify the family of its determination in accordance with the approval policy set forth in Section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)]. The family must specify the area to which the family wishes to move [24 CFR 982.355 (c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

PHA Policy

For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the effective date of the family's regular reexamination is before the date the HAP contract for the previous unit terminated.

The PHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

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Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families. Therefore, no special briefing is required for these families.

PHA Policy

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the PHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The PHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family selects the receiving PHA and notifies the initial PHA of which receiving PHA was selected. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area. The PHA will not provide any additional information about receiving PHAs in the area. The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the PHA will not provide the family with information for all receiving PHAs in the area.

The PHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, payment standards, and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

PHA Policy

For families approved to move under portability, the PHA will issue a voucher within 15 business days of the PHA's written approval to move.

The initial term of the voucher will be 120 days.

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Voucher Extensions and Expiration

PHA Policy

The PHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, Section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

PHA Policy

The PHA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(7)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2016-09]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

PHA Policy

The PHA will mail all information necessary to notify the receiving PHA to expect the family. The initial PHA will provide any available information the family may need upon arrival, including the name, fax, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family.

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Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09].

PHA Policy

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program.

The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

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Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document that the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA of this decision in writing.

If the initial PHA will honor the late billing, no action is required.

PHA Policy

If the PHA has not received an initial billing notice from the receiving PHA by the billing deadline, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The PHA will send the receiving PHA a written confirmation of its decision by mail.

The PHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

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Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(3)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

> PHA Policy
>
> The initial PHA will utilize direct deposit, if available, to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

Updates of Form HUD-50058 [Notice PIH 2016-09]

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 from the receiving PHA at each reexamination, regardless of whether there is a change in the billing amount. The receiving PHA must send the updated form HUD-50058 to the initial PHA no later than 10 business days following the effective date of the reexamination. The frequency of this notification will be based on how frequently the receiving PHA conducts reexaminations for voucher families, including those that have ported into their jurisdiction.

If the receiving PHA fails to send an updated form HUD-50058 on time, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

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10-II.C. RECEIVING PHA ROLE

When a family moves under portability (in accordance with 24 CFR 982.353(b)) to an area outside the initial PHA jurisdiction, the receiving PHA must administer assistance for the family if a PHA with a HCV program has jurisdiction in the area where the unit is located [24 CFR 982.355(a)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family unit size (voucher size) for the family is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA [24 CFR 982.355(c)(4)].

> PHA Policy
>
> The PHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired before the family arrives at the receiving PHA, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

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Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

PHA Policy

For any family moving into its jurisdiction under portability, the PHA will perform a criminal background check through local law enforcement for adult household members not previously approved by the initial PHA. A VASH family that moves under the portability procedures must not be subject to rescreening by the receiving PHA.

For any family moving into its jurisdiction under portability, the PHA will conduct a new reexamination of family income and composition only if the family reported new income or household members, or if necessary to determine income eligibility for an applicant family.

The PHA will make reasonable effort to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the form HUD-52665 and supporting documentation, provided that:

- The information is in order;
- The family has contacted the PHA; and
- The family complies with the PHA's procedures.

In the case of an applicant family, the PHA may delay issuing a voucher or otherwise delay approval of a unit if the recertification is necessary to determine income eligibility. For example, if the applicant family initially reported they had no earned income but they subsequently obtain new employment, the PHA may need to conduct a recertification of income to ensure the family is income eligible in the PHA's jurisdiction. For applicant families the PHA will only screen for income eligibility and lifetime sex offender status.

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

PHA Policy

The PHA will require the family to attend a briefing and provide the family with a briefing packet (as described in Chapter 5).

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Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

PHA Policy

When a family ports into its jurisdiction, the PHA will issue the family a voucher within two weeks after receiving the family's paperwork from the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures.

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration date of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

PHA Policy

The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice PIH 2016-09]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extensions granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

PHA Policy

The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in Section 5-II.E.

The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

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Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2016-09]

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under HAP contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

> PHA Policy
>
> Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

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Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. The deadline may be extended for 30 additional days if delayed billing is due to suspension of the voucher's term (see Initial Billing section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

PHA Policy

The PHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the billing deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, Form HUD-52665]

Updated Form HUD-50058. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 at each reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount. The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days from the effective date of the reexamination. This notification serves as a "reconciliation" to assist both PHAs in fulfilling their accounting and record-keeping responsibilities. The frequency of this notification will be based on how frequently the receiving PHA conducts reexaminations for voucher families, including those that have ported into their jurisdiction.

PHA Policy

The PHA will send an updated form HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice

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of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

The initial PHA must pay the initial billing amount within 30 calendar days of receipt of form HUD-52665. Subsequently, the initial PHA must pay no later than the fifth business day of each month for each month that the billing arrangement is in effect. The payment must be provided in a form and manner that the receiving PHA is able to accept.

Program regulations at 24 CFR 982.355(f)(1) provide that HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA's ACC. Upon request from the receiving PHA, HUD may exercise this authority in cases where the initial PHA fails to comply with the initial and subsequent monthly billing payment due dates described in Notice PIH 2016-09. Notwithstanding the transfer policies described below, failure to comply with HUD's financial procedures, including the billing and payment deadlines, may also result in the reduction of administrative fees.

Notice PIH 2016-09 outlines the process for requesting the transfer of baseline units and funding from the initial to the receiving PHA. The PIH field office with jurisdiction over the receiving PHA is the lead HUD office in resolving any dispute over the timeliness of the billing payments. After examining the documentation submitted by the PHAs the lead field office determines if the billing payments were late.

Receiving PHAs should make a first attempt at resolving any late billing payments with the initial PHA. Should such attempts fail to result in a resolution, receiving PHAs may seek assistance from their local PIH field office. If assistance from the local PIH field office also fails to result in a resolution, the receiving PHA may seek transfer of the units and funding in question by following the steps outlined in Notice PIH 2016-09. PHAs should document all communications between agencies and retain a record of all transactions between PHAs.

If the transfer is granted, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2016-09]

In all cases where the receiving PHA receives payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including HAP and administrative fees) to the initial PHA.

If billing payments have continued for billing arrangements no longer in effect, HUD may, at its discretion, take actions described in Notice PIH 2016-09.

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Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Form HUD-52665, Notice PIH 2016-09]

PHA Policy

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 15 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of billing arrangement [Notice PIH 2016-09].

PHA Policy

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the PHA decides to absorb a family after that, it will provide the initial PHA with 15 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

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Chapter 15

SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

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.

PHA Policy

Families will be able to utilize the following special housing types:

- Single Room Occupancy
- Manufactured Homes (including manufactured home space rental)

Families will not be permitted to use any other special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

For VASH, families will be permitted to use Single Room Occupancy, congregate housing, group home, shared housing, and cooperative housing [FR-6476-N-01].

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].

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 **(The PHA is not currently operating a homeownership program beyond the pilot program developed in October 2002. All policies listed in this chapter apply only to that pilot program).**

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PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

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, and the standard form of the HAP contract is used.

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 as modified below.

- *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, 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].

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- *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, 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.

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PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

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, and the standard form of the HAP contract is used.

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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. 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 (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

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PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed 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, and the standard form of the HAP contract is used.

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

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the live-in aide must be counted in determining the family 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 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 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 should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

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15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes 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.
- *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 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.

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PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. 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. 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 providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

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 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 space by the total number of bedrooms in the unit.

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.

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 should consider whether sanitary and food preparation areas are private or shared.

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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. A zero-bedroom or one-bedroom unit may not be used for shared housing.

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PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

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."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

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 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.

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PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624, FR Notice 1/18/17, Notice PIH 2017-18]

15-VI.A. OVERVIEW

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

Family Responsibilities

A manufactured home owner assisted under the HCV manufactured home space rental special housing type has the same family responsibilities that apply to families receiving regular HCV assistance.

A key aspect of the family obligations that is unique to the manufactured home space rental housing type is the family's responsibility to promptly report any changes in their monthly loan payment amount and to advise the PHA if they have stopped making their monthly loan payments for any reason.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

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15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

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.

Rent of the Manufactured Home Space

The rent of 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 owner must provide under the lease;
- 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 PHA utility 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.

Monthly payments to pay off the home purchase loan must still be being made by the family in order to be included in the rent calculation. The family must promptly report any changes in the monthly loan payment to the PHA (including changes that result in changes to the amount collected by the lender for property taxes and insurance), and the PHA must adjust the HAP accordingly.

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Components of the Monthly Loan Payment

The debt service portion of the monthly loan payment is comprised of two components, principal and interest.

Principal is the actual amount of the family's loan to purchase the home. A portion of the principal is paid off each month as part of the family's monthly loan payment.

Interest is the amount that the lender charges the family for borrowing the money to purchase the home and is a percentage of the principal. If the family has an adjustable rate loan, the amount of the family's monthly loan payment may change during the time the family is assisted under the HCV program. If the interest rate and consequently the family's monthly loan payment changes, the PHA must recalculate and apply any change to the HAP amount. The effective date of the change in HAP is the effective date of the change in the monthly loan payment amount.

Property Taxes and Insurance

The monthly loan payment made by the family to the lender may also include amounts that are required by the lender to cover property taxes and insurance on the manufactured home. If the family's monthly loan payment includes a mortgage insurance premium incurred to finance the purchase of the home, this amount is also included in the monthly loan payment with respect to the HAP calculation.

In order for the family's expenses for home insurance and property taxes to be included in the definition of rent for subsidy calculation, these amounts must be included in the family's monthly loan payment to the lender to amortize the cost of purchasing the home. In other words, the lender collects and escrows amounts for those expenses as part of the family's monthly payments in addition to the principal and interest on the loan in order to pay the insurance and property taxes directly on behalf of the family.

Debt Service for Manufactured Home Set-Up Charges

If the monthly amortization payments made by the family include debt service for the manufactured home's set-up charges, these costs must be included as long as the family is still making the monthly loan payments that amortize those charges.

Impact of Family Refinancing of the Original Purchase Loan

Any increase in debt service due to refinancing after purchase of the home must not be included in the amortization cost of the monthly loan payment used to calculate the rent for purposes of the HAP calculation. If the PHA does not know or is uncertain if the family's current loan is the original loan undertaken to finance the purchase of the manufactured home, the PHA must determine if the family has refinanced the original loan.

If the family has refinanced the loan, the PHA must compare the original debt service amount (the monthly payment amount for the principal and interest of the original purchase loan) to the current debt service amount. When calculating the HAP for the family, the PHA must use the lesser of the original debt service amount or the current debt service amount. This restriction on any increase in debt service as a result of refinancing only applies to the principal and interest portion of the family's monthly loan payment. The PHA always uses the current amounts for insurance and property taxes that are included in the monthly loan payment when determining the family's subsidy.

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End of Monthly Loan Payments

Once the family's monthly loan payments end, the HAP must be recalculated to reflect the change in the "rent" and the change in the HAP must be effective immediately (similar to a decrease in the rent for a regular rental unit under the HCV program). In other words, the PHA would adjust the HAP effective on the first day of the month following the last monthly loan payment by the family. This adjustment is made if the family's monthly payments end for any reason.

Verification Documentation for Manufactured Home Purchase Monthly Loan Payments

The PHA must verify and document the amount of the family's monthly manufactured home loan payment in the tenant file. The PHA must establish standards for this verification and documentation.

PHA Policy

The PHA will require two most recent and consecutive monthly loan payment statements generated by the lender and the family's evidence of recent payment of the monthly loan amount (such as canceled checks, bank statements, or credit card bills).

The monthly loan payment statements may be provided to the PHA directly by the family. The PHA may, at its discretion, follow up directly with the lender if the PHA has questions or concerns about the documentation and needs further verification of information.

In addition to the amount of the monthly payment due to lender, the PHA will record other pertinent information regarding the loan and payment in the family file such as the date that the term of the loan originated and ends.

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.

The PHA pays the HAP directly to the owner of the manufactured home space. If the HAP amount exceeds the rent to the space owner, the PHA may pay the remainder to the family, lender, or utility company. The PHA must always pay the HAP to the owner of the manufactured home space to cover the full amount of the space rent before there is any consideration of paying the family, lender, or utility supplier.

The PHA may provide the entire remaining HAP balance to the family. The family is then responsible for paying the full amount of their remaining housing costs (e.g., monthly loan payment, utilities) directly to the lender and utility suppliers. The lender or utility supplier has no right to any part of the HAP directly from the PHA.

PHA Policy

If the HAP amount exceeds the rent to the space owner, the PHA will pay the remaining HAP balance to the family.

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Rent Reasonableness

Initially, and 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 in accordance with the lease (without a fee in addition to the rent). By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

The PHA does not take the condition or characteristics of the manufactured home or the family's monthly loan payments into consideration when determining if the owner's rent for the space is reasonable. In this case, the "rent" under consideration with respect to rent reasonableness is only the rent the owner is charging the family to lease the space.

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.

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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.

The PHA is not currently operating a homeownership program beyond the pilot program developed in October 2002. All policies listed in Sections 15-VII.A through 15-VII.O of this chapter apply only to that pilot program.

The pilot homeownership program will not be affected by rent reform changes. Previously adopted policies will be maintained.

PHA Policy

The PHA's Section 8 Homeownership program provides eligible participants in the tenant-based HCV program the option of purchasing a home with their Section 8 assistance. A maximum of 70 families will participate in the two-year pilot Section 8 Homeownership program. Of this number, 20 slots (10 per year) will be reserved for families being relocated during HOPE VI development of New Columbia. 10 slots (5 per year) will be set aside for elderly and disabled families. Elderly and disabled-qualified families must so qualify at the commencement of homeownership.

Although this program is voluntary, families that choose homeownership are required to participate in the PHA's GOALS (Greater Opportunities to Advance, Learn and Succeed) Family Self-Sufficiency (FSS) program. The GOALS coordinator and the participant develop short- and long-term goals and a plan for achieving them. The GOALS program escrow savings account may be used as a part of the down payment.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

PHA Policy

The PHA will offer both the monthly homeownership assistance payments and the down payment assistance program (when permitted by HUD). Families selected to receive homeownership assistance will have the choice between the two options. A family may only receive one form of assistance; the two types of assistance may not be combined.

The grant may be applied to the down payment for purchase of the home or for reasonable and customary closing costs required in connection with the purchase of the home. A HOPE VI relocation payment is not a down payment assistance grant as defined above. A HOPE VI relocation payment may be used in conjunction with tenant-based rental assistance.

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A down payment assistance grant may not exceed twelve times the difference between the payment standard and the total tenant payment as would be paid in the first year of assistance.

If the grant is to be used for closing costs, the costs must be reasonable and customary, and must permit for costs required if financed under FHA-insured mortgages.

The down payment assistance grant may be paid to the family or to a mortgage lender on behalf of the family. The grant must be paid at the closing of the family's purchase of the home.

The PHA must offer either form of 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. If the PHA determines that it is reasonable to offer homeownership assistance as a reasonable accommodation for a person with disabilities, policies in Section 15-VII.P of this chapter will apply.

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.

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

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.

PHA Policy (MTW)

The requirements listed below include requirements listed in the regulations and additional eligibility criteria established by the PHA:

- The family must have been admitted to the Housing Choice Voucher (HCV) program.
- The family must be a participant in good standing in the Section 8 tenant-based HCV program (participants in project-based programs are not eligible).
- The family must have completed the initial twelve-month term of a Section 8 assisted lease or must have had their first annual recertification in HCV program (whichever is later). HCV participants who have completed the initial twelve-month lease term in another jurisdiction have also met this requirement. Residents of New Columbia who have completed the twelve-month satisfactory tenancy have also met this requirement.
- The family must not owe any money to the PHA or any other PHA. The family may acquire "good standing" if all outstanding debt is paid; however, the family will not be eligible for homeownership assistance until twelve months after the final debt payment to PHA.
- The family must be a participant in good standing or a graduate of the PHA's GOALS program.
- The family must have made substantial and verifiable progress in their GOALS program, as agreed to with their GOALS coordinator.
- Elderly and disabled families may choose between participation in the GOALS program or in a modified case management program designed for their needs. A GOALS coordinator will monitor the family's progress.
- The family must have successfully completed the Financial Fitness and ABC's of Home Buying class provided by the Portland Housing Center (PHC) within the previous twelve months of the family's application to participate in the homeownership assistance program.
- The family must qualify as a first-time homeowner. This means that no family member has had an ownership interest in any residence during three years preceding Section 8 homeownership assistance.
- A cooperative member qualifies as a first-time homeowner.
- A single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse), is considered a first-time homeowner for this program.

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- Families with elderly or disabled member may have previously been homeowners.
- The family must meet the PHA's minimum income requirement. The family's gross annual income must be equal to, or higher than, 40% of the area median family income (MFI) for the family size.
- The PHA will not include any welfare assistance income in determining whether the family meets the minimum income requirement for initial homeownership qualification. Welfare assistance includes Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. This does not affect the determination of income eligibility for admission to the Section 8 HCV program, calculation of the family's total tenant payment, or calculation of homeownership assistance payments.
- For elderly and disabled families, incomes such as SSI, Social Security, and general assistance will be included in determining whether the family meets the minimum income requirement.
- The family must have at least $3,000 in GOALS escrow savings, or other source or combination of sources of readily available and verifiable secured assets. This may include lump-sum funds for relocation through the Uniform Relocation Act.
- The escrow savings requirement does not apply to elderly and disabled 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.
- Families will be considered "continuously employed" if the break in employment does not exceed two months. The PHA may waive employment requirements in certain circumstances, considering employment interruption and reemployment situations when verifiable through income tax records, etc.
- 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. However, prior default on any other loan program or product will comply with time periods established by current lending practices.
- 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.

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- 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).
- Family participation in the homeownership assistance program is conditioned on the family attending and successfully completing the PHC's HomeOwner Basics and being approved for a second mortgage loan by the PHC prior to issuance of homeownership assistance.
- For HOPE VI relocation families, the Executive Director may waive certain eligibility requirements as described in this section, such as GOALS participation and/or minimum tenancy, as evaluated on a case-by-case basis.

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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.

PHA Policy

The PHA will notify all current Section 8 GOALS families by mail about the start date of the pilot homeownership program. The notification will indicate where application forms will be available. The family must complete and submit the application to the PHA. Applications will be selected and processed using a random selection method. All new Section 8 GOALS participants will be briefed about this option when accepted into the GOALS program.

The PHA will send to the Portland Housing Center (PHC) the first 12 families from the pool of applicants who meet all homeownership criteria. Families will be referred to PHC for second mortgage loan approval, and assistance in obtaining first mortgage loan approval, choosing a realtor, and locating a home.

The PHA will process the next group (remainder of 25 Section 8 home buyers per year) when no fewer than 5 of the first 12 families have:

- Made a written and accepted offer on a home, and passed the HQS and independent home inspection;
- Decided to withdraw from the homeownership process and continue on with their Section 8 Housing Choice Voucher program through renting; or
- Have been actively pursuing homeownership and are able to qualify within the next twelve months based on the assessment of the PHC credit counselor. The "actively pursue homeownership" requirement will be satisfied by the household's participation in one or more of the following activities:
    - Regularly attend PHC homebuyer credit counseling sessions;
    - Contribute monthly into a savings account or an individual development account for a down payment to purchase a home;
    - Work towards a long-term debt ratio of 10% or less of gross income;
    - Adhere to a quarterly review of actual expenses versus projected expenditures by credit counselor;
    - Contact the credit counselor monthly;
    - Actively search for a home in their affordable price range; and/or
    - Participate in other services offered by the PHC.

If the Section 8 homebuyer ceases to "actively pursue homeownership" for a period of more than two months, the reservation of funds will be forfeited. The funds will be reserved on a first-come, first-served basis until fully committed.

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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 under construction or already exist at the time the family enters into the contract of sale.

  PHA Policy

  If the unit is under construction, it must be completed and ready to close, purchase, and move into within one year of acceptance into the homeownership program.
- 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.

  PHA Policy (MTW)

  A manufactured home must be sited on its own lot, be at least double-wide, be built after 1976, have tie-downs, and comply with current Federal Housing Administration (FHA) standards. Homes must be titled with the land, cannot be on rented space, in a park, or elsewhere.

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- 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.

    PHA Policy (MTW)

    PHA-employed Senior Housing Inspectors will inspect homeownership units for compliance with HQS.

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.

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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.

PHA Policy

The family will be allowed 90 days to locate a home to purchase and submit a proposed contract of sale acceptable to PHC. The home must be located in Multnomah County.

The PHA may extend the family's time to locate the home for one additional 30-day increment for good cause. All requests for extensions must be submitted to the PHA in writing prior to the expiration of the period for which the extension is being requested. The PHA will notify the family in writing within 15 business days of its decision to approve or deny the request.

During the search for a home, the family will continue to receive HCV rental assistance in accordance with any applicable lease and HAP contract, pursuant to the HCV administrative plan.

During the search for a home, the family must continue to work with PHC on locating a home. Failure to notify PHC for four consecutive weeks will result in withdrawal from the homeownership program. The family will continue to receive HCV rental assistance pursuant to the HCV administrative plan.

During the search for a home, the family must report their search status to the PHA twice a month. Failure to report will result in withdrawal from the homeownership program. The family will continue to receive HCV rental assistance pursuant to the HCV administrative plan.

Once a home is located and a contract of sale, approved by PHC and the PHA, is signed by the family, the family will have up to 90 days to purchase the home. This 90-day period will allow time for inspections, appraisal and scheduling for any required repairs. The family may move in at the end of this 90-day period or sooner, if all parties agree and financing is ready for funding and recording. The PHA may grant an exception to this period for good cause. All requests for extensions must be submitted to the PHA in writing prior to the expiration of the period for which the extension is being requested. The PHA will notify the family in writing within 15 business days of its decision to approve or deny the request.

If the family is unable to locate a home within the time frame approved by the PHA, the family will continue to receive HCV rental assistance pursuant to the HCV administrative plan. The family may re-apply to the homeownership waiting list but must wait for their name to be selected again.

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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.

PHA Policy

Family participation in the homeownership assistance program is conditioned on the family attending and successfully completing the Portland Housing Center's HomeOwner Basics and being approved for a second mortgage loan by the Portland Housing Center prior to issuance of homeownership assistance. HomeOwner Basics covers the topics listed above.

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.

PHA Policy

If required by PHC or the PHA, the family must attend on-going homeownership counseling.

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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.

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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 or provide down payment assistance grants for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

PHA Policy

When the family locates a home they wish to purchase and submits a copy of their purchase offer/agreement, the PHA will conduct an HQS inspection within 5 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.

PHA Policy

The family must hire and independent licensed professional inspector from a PHC list of approved inspectors, whose report must be submitted to the PHA for review, including a Pest and Dry Rot report.

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.

PHA Policy

While the family is receiving homeownership assistance, the PHA will conduct an HQS inspection on a biennial basis.

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Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, 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.

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)].

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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.

PHA Policy

The PHA has a Memorandum of Understanding with PHC to administer financing for the pilot Section 8 homeownership program. PHC has raised loan capital dedicated to the Section 8 homeownership home buyers and has agreed to use this loan capital toward the PHA's Section 8 homeownership home buyers.

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 in which the family agrees to comply with all family obligations under the homeownership option.

PHA Policy

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 refinance, add debt secured by the home, lease, sublease, assign, sell or transfer nay interest in the home to anyone without prior approval of PHC and the PHA.
- The family must notify the PHA and PHC in writing of any intent of sale or transfer of any interest in the home.
- 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 obtain a written approval from the PHA and PHC prior to adding anyone to the title or altering ownership or interest in any way.
- 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

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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 and PHC in writing of any intent to move out of the home at least 30 days before moving out.
- The family must comply with the terms of any mortgage used to purchase the home and notify the PHA and PHC within 5 calendar days of receipt of any default or late payment notice.
- No family member may have any ownership interest in any other residential property.
- The family must maintain the property in a decent, safe and sanitary condition. The family is responsible for any costs of home repair and maintenance.
- The family must allow the PHA to inspect the home within one week of the PHA notice. The family must correct any HQS deficiencies within the time frame specified in the PHA notice of deficiency.
- The family must continue in good standing and abide by all current and future HCV and homeownership program requirements, as described in the HCV administrative plan.
- The family must continue participation in the PHA's GOALS program (or homeownership case management, if elderly or disabled) for a period to be determined by GOALS coordinator. Families that have graduated from the GOALS program will be case-managed by the homeownership coordinator.

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15-VII.J. MAXIMUM TERM OF HOMEOWNERSHIP 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.

PHA Policy (MTW)

The maximum term of assistance is fifteen years from initial purchase. The first mortgage loan has a term of 30 years; the second mortgage term is 15 years.

Exceptions beyond the original term of assistance will be reviewed on a case-by-case basis to accommodate needs of elderly and disabled families.

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.

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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 in elsewhere in this plan for the Housing Choice Voucher program.

PHA Policy (MTW)

The monthly assistance amount paid to PHC on behalf of home buyers will be established at the time of initial certification for Section 8 homeownership program, and will be based upon the following factors, subject to change with notice:

- The voucher payment standard for which the family is eligible;
- The monthly homeownership expense;
- The family's income.

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards, or (2) the payment standard for the size of the home the family decides to purchase.

For the purposes of the PHA's homeownership program, the payment standard will not be adjusted even if there is a subsequent decrease in family size. The PHA will freeze the payment standard for the term of assistance to the amount at the time of purchase. Both the payment standard and the amount of subsidy will remain constant for the entire term of assistance.

In the event the family's income increases and the family no longer qualifies for assistance, the PHA will continue to make payments for 180 days after the family is determined to be over-income. After the 180-day period, the family will be obligated to make the remaining loan payments to PHC and the first mortgage lender until the loan balances are satisfied.

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.

PHA Policy (MTW)

The family will make the payments on the first mortgage to the primary lender as instructed by the lender. The PHA will make payments on the second mortgage directly to PHC. The PHA will provide PHC with notice of the amount of the assistance payment at the time of initial referral to PHC.

The total family contribution is the portion of homeownership expense that the family must pay to the first mortgage lender. It is a minimum of Total Tenant Payment (TTP) as

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determined by the PHA, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's adjusted monthly income for purposes of calculating the amount of assistance.

Any charges for late payments will be the family's responsibility.

If the family becomes ineligible for the homeownership assistance for any reason, the family will have full responsibility to make payments on both first and second mortgages until these obligations are satisfied.

Homeownership assistance for a family terminates automatically 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.

PHA Policy (MTW)

In the event the family's income increases and the family no longer qualifies for assistance, the PHA will continue to make payments for 180 days after the family is determined to be over-income. After the 180-day period, the family will be obligated to make the remaining loan payments to PHC and the first mortgage lender until the loan balances are satisfied.

The PHA will not grant relief from this requirement under any circumstances.

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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) only 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.

PHA Policy

The PHA will allow the following homeownership expenses:

- 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 warranty;
- Homeowner insurance;
- Principal and interest on mortgage debt incurred to finance major repairs 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;
- Homeowner association dues, fees, regular charges, if assessed.

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Homeownership expenses for a cooperative member may only 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.

PHA Policy

The PHA will not allow any homeownership expenses for a cooperative member because there are currently no cooperative homeownership units available in the PHA's jurisdiction.

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15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and 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.

PHA Policy (MTW)

Home purchases will be limited to the PHA's jurisdiction. The family may not exercise portability under the homeownership program.

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

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

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

- Lack of funding to provide continued assistance.
- At any time, the PHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

PHA Policy

The PHA will approve and/or deny a family permission to move in accordance with policies in Chapter 10. Homeownership families may not move more than once a year.

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.

PHA Policy

If the family defaulted on an FHA-insured mortgage, the PHA may permit the family to continue with voucher rental assistance if the family demonstrates that it has:

- Conveyed title to the home to HUD or its designee, as required by HUD;

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- Moved from the home within the period established or approved by HUD; and
- Has left the home in good condition per HQS standards.

If the family defaults on a mortgage that is not FHA-insured, the PHA may permit the family to move with voucher rental assistance if the family demonstrates that it has:

- Conveyed title to the home to the first mortgage lender and notified PHC of this action;
- Moved from the home within the period established by the first mortgage holder and PHC; and
- Left the home in good condition per HQS standards.

A family that has received a down payment assistance grant may apply for and receive tenant-based rental assistance. However, the PHA will not commence housing choice voucher rental assistance for a new unit so long as any member of the family owns any title or other interest in the home purchased with homeownership assistance. In addition, 18 months must have passed since the family's receipt of the down payment assistance grant.

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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.

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.

PHA Policy

The PHA may terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 15-VII.I or any obligations under the Section 8 program, or if the family defaults on the mortgage.

In making its decision to terminate the 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.

For termination of homeownership assistance for any cause other than income increase, the PHA will give a 30-day notice, after which the homebuyer is responsible for payment on both first and second mortgage debt.

In the event the family's income increases and the family no longer qualifies for assistance, the PHA will continue to make payments for 180 days after the family is determined to be over-income. After the 180-day period, the family will be obligated to make the remaining loan payments to PHC and the first mortgage lender until the loan balances are satisfied. The PHA will not grant relief from this requirement under any circumstances.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F. This only applies if the PHA terminates homeownership assistance for program rules violation. No hearing will be provided if primary lender or PHC forecloses on the mortgage.

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15-VII.O. WAIVER OR MODIFICATION OF HOMEOWNERSHIP POLICIES

PHA Policy (MTW)

The Executive Director of the PHA shall have the discretion to waive or modify any provision of the Section 8 homeownership program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives. Any changes require a 30-day notice to PHC.

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15-VII.P. HOMEOWNRESHIP ASSISTANCE AS A REASONABLE ACCOMMODATION

The PHA is not currently operating a homeownership program beyond the pilot program as described in Sections 15-VII.A through 15-VII.O of this chapter.

If the PHA determines that it is reasonable to offer homeownership assistance as a reasonable accommodation for a person with disabilities, policies in this section will apply.

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 [24 CFR 982.625(g)].

PHA Policy

The PHA has established a minimum homeowner down payment requirement of at least three percent of the purchase price, and requires that at least one percent of the purchase price come from the family's personal resources.

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.

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.

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Family Eligibility [24 CFR 982.627]

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.
- 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.
- 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).

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PHA Policy

The PHA established additional eligibility requirements as follows:

The family must be a participant in good standing in the tenant-based Housing Choice Voucher program (participants in project-based programs are not eligible)

The family must have been receiving HCV assistance for a unit under a HAP contract for at least twelve months

The family must not owe money to any PHA

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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 under construction or already exist at the time the family enters into the contract of sale.

  PHA Policy

  If the unit is under construction, it must be completed and ready to close, purchase, and move into within one year of acceptance into the homeownership program.
- 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, the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

  PHA Policy (MTW)

  A manufactured home must be sited on its own lot, be at least double-wide, be built after 1976, have tie-downs, and comply with current Federal Housing Administration (FHA) standards. Homes must be titled with the land, cannot be on rented space, in a park, or elsewhere.

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- 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.

    PHA Policy (MTW)

    PHA-employed Housing Inspectors will inspect homeownership units for compliance with HQS.

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.

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.

PHA Policy

The family will be allowed 180 days to identify a unit and submit a sales contract to the PHA for review. The PHA will grant one 60-day extension. The family will be allowed an additional 90 days to close on the home. The PHA may grant additional 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, pursuant to the HCV administrative plan, 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 60 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

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and purchase time period expires, the family will be issued a voucher to lease a unit pursuant to the HCV administrative plan.

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.

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Home Inspections [24 CFR 982.631]

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.

PHA Policy

When the family locates a home they wish to purchase and submits a copy of their purchase offer/agreement, 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.

PHA Policy

The family must hire an independent licensed professional inspector, whose report must be submitted to the PHA for review. This inspector must be qualified to report on property conditions, including major building systems and components, and must be approved by the lender. The inspector may not be a PHA employee.

The independent inspector must provide a copy of the inspection report both to the family and to the PHA. 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.

PHA Policy

The PHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

If the PHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

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

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Contract of Sale [24 CFR 982.631]

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.

Disapproval of a Seller [24 CFR 982.631]

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)].

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.

If the purchase of the home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements.

PHA Policy

The PHA has established requirements for financing purchase of a home to be assisted under the homeownership option. The following forms of financing provisions are prohibited:

- Balloon payment mortgages
- Variable-rate interest
- Pre-payment penalties on conventional loans
- Seller financing
- Interest only mortgage

Only FHA, VA, or conventional loans from a regulated provider are allowed. If the purchase of the home is financed with FHA or VA mortgage insurance, such financing is

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subject to FHA or VA requirements. Otherwise, all underwriting standards of the selected lender's financing program will apply.

After a lender qualifies a family for a loan, the family must provide written verification of qualification to the PHA. The PHA will review the terms of financing before authorizing homeownership assistance. The PHA reserves the right to disapprove any proposed financing, refinancing, or financing for improvements or repairs if the PHA determines that the debt is unaffordable, or if the PHA determines that the lender or the loan terms do not meet PHA qualifications.

The PHA will consider the debt unaffordable if the family's total contribution toward the mortgage exceeds 50% of the family's gross monthly income.

As long as the family is receiving homeownership assistance, before any refinancing of the mortgage debt or financing for improvement or repairs is finalized, the family must provide the PHA with all information concerning the terms of the new financing in writing. The PHA must approve the new lender and financing terms before the new financing can take place.

Homeownership assistance will not be used to assist the purchasing family with financing costs such as downpayment, closing costs, independent inspection, appraisal etc.

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 in which 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, subject to 24 CFR 982.633. 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.
- No family member may have any ownership interest in any other residential property.

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- 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).

The PHA may establish additional requirements for continuation of homeownership assistance for the family (for example, a requirement for post-purchase homeownership counseling or for periodic unit inspections while the family is receiving homeownership assistance). The family must comply with any such requirements.

Maximum Term of Homeownership 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.

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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. The annual income and total tenant payment will be determined in accordance with MTW rent reform policies as described in Chapter 6. The regular reexaminations of family income and composition will be conducted in accordance with MTW policies in Chapter 11.

The payment standard for a family is the lower of (i) the payment standard for the family unit size or (ii) the payment for the size of the home.

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 in accordance with the paragraph above) at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard (as determined in accordance with the paragraph above) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

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.

PHA 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. Any charges for late payments will be the family's responsibility.

Homeownership assistance for a family terminates automatically 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.

PHA Policy

Homeownership assistance for a family will terminate automatically 180 calendar days after the PHA's last homeownership assistance payment on behalf of the family. The PHA will not grant relief from this requirement under any circumstances.

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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 for a homeowner (other than a cooperative member) may only 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.

PHA Policy

The PHA will allow the following homeownership expenses:

- Principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium incurred to finance purchase of the home, if applicable.
- Real estate taxes and public assessments on the home
- Home insurance
- 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
- The PHA utility allowance for the home, based on the HCV utility allowance schedule
- Land lease payments where a family does not own fee title to the real property on which the home is located

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- Condominium operating charges or maintenance fees, if applicable.

Homeownership expenses for a cooperative member may only 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;
- 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.

<u>PHA Policy</u>

The PHA will allow the following homeownership expenses for a cooperative member:

- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Real estate taxes and public assessments on the home
- Home insurance
- 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
- The PHA utility allowance for the home, based on the HCV utility allowance schedule
- Cooperative operating charges or maintenance fees, if applicable.

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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.

Moving with Continued Assistance [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to 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 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 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

  PHA Policy

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

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.

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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.

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.

PHA Policy

The PHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in the Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program (form HUD-52649) or any obligations under the Housing Choice 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.

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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.

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PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net assets (UNA) 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 UNA 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)(l).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA 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 UNA account without specific approval.

PHA Policy (MTW)

MTW authority allows the PHA to move funding between designated PHA programs and allows for different reserve requirements. MTW Plan language should be referenced in regards to funding requirements. Board guidance is sought for all fungibility expenses.

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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).

  PHA Policy

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

  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.

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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.

PHA Policy (MTW)

The PHA will establish its payment standards between 80 and 160 percent of the published FMR under the Moving to Work authority. Payment standards will be set for nine separate neighborhoods and broken down by unit size.

HUD has granted the PHA approval to set different payment standards for VASH voucher households, up to 160 percent of the published FMR.

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)].

PHA Policy (MTW)

The PHA will review the appropriateness of the payment standards when the new FMRs are published. In addition to ensuring the payment standards are always within the range of 80 to 160 percent of the published FMR 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.

Market Rates: In analyzing market rates for different areas, the PHA may use existing studies of rents in the PHA's jurisdiction, including Multifamily NW semiannual Apartment Report. In addition, the PHA may conduct its own survey to collect and maintain data on market rents in the PHA's jurisdiction. Information sources also include newspapers, realtors, market surveys, inquiries of owners and other available sources.

The PHA will review the market data every six months as the Multifamily NW report is published. If trending data shows that a market rent for one of the established areas has changed by 10 percent and there is room within the 80 - 160% range to make an adjustment, payment standards will be adjusted within 60 days. If the shift is between 5 - 9%, the PHA will further analyze the data and adjust payment standards if deemed necessary.

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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 gross income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of gross 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 will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

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 will 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 will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

If the PHA determines that changes to payment standard amounts are necessary, the amounts will be adjusted. For regular recertifications, the effective date of the changes will be 90 days after the PHA established the new payment standard amounts. For new admissions and moves, the effective date of the changes will be the first of the month after the PHA established the new payment standard amounts.

The PHA may update its payment standards more than once a year if the PHA determines that an adjustment is necessary.

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Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

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.

PHA Policy (MTW)

The PHA may approve a payment standard of not more than 160 percent of the FMR without HUD approval for units in low poverty areas or if required as a reasonable accommodation for a family that includes a person with disabilities.

A family that is moving into a unit in low poverty area and / or requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, the PHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family share would otherwise exceed **50** percent of the family's monthly gross income (MTW); and
- The rent for the unit is reasonable.

If the PHA approves an exception, the PHA will maintain documentation that the PHA performed the required rent reasonableness analysis and the unit is in low poverty area and/ or has feature(s) required to meet the needs of the person with disabilities.

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VASH Voucher Households

HUD has granted the PHA approval to use a payment standard amount of more than 160 percent of the FMR on a case by case basis for VASH voucher households that are leasing in place after an initial placement with Supportive Services for Veteran Families (SSVF) or local rapid rehousing resources.

A VASH voucher household that is leasing in place after an initial placement with SSVF or other local rapid rehousing resources may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The household must provide documentation of an initial placement with SSVF or local rapid rehousing resources. In order to approve an exception, the PHA must determine that 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.

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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.

> PHA Policy
>
> The PHA will include an allowance for air-conditioning in its utility allowance schedule.

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.

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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

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 HQS
- A PHA determination that the unit is not in accordance with HQS due to family size or composition.

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PHA 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

PHA Policy

A request for an informal review must be made in writing and delivered to the PHA in person, by first class mail, or by facsimile, 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 15 business days of the family's request.

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.

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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.

PHA 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 and/or PHA policies, 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 15 business days of the informal review, to the applicant and, when requested as a reasonable accommodation for a disabled or elderly family, to his or her representative.

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.

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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 action 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)]

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PHA Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

For participants requesting an informal hearing for the following PHA determinations, the informal hearing will be conducted by a program supervisor other than the person who made or approved the determination in question or their subordinate:

- 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

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 an assisted unit is not in compliance with HQS. (However, the PHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR 982.551(c).)
- 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.

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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.

PHA 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.

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.

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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.

PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA in person, by first class mail, or by facsimile, 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 send a written notice of the informal hearing to the family within 15 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least 24 hours prior to the hearing date and time. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date and time, 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.

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***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.

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.

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. The family must request discovery of PHA documents no later three business days prior to the scheduled hearing date.

The PHA must be given an opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the PHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later three business days prior to the scheduled hearing date.

***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.

PHA Policy

Hearing officers will be assigned, appointed, hired or contracted by the Chief Operating Officer or his/her designee.

The PHA supervisors, other than the person who made or approved the PHA decision in question or their subordinate, may serve as hearing officers.

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Attendance at the Informal Hearing

PHA 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)].

PHA 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.

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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.

PHA 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 of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

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

PHA Policy

The hearing officer may ask the family for additional information before reaching a decision. If the family misses the deadline for providing additional information requested by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

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.

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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/or 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 15 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 his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole 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.

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The hearing officer may ask the family for additional information before reaching a decision. If the family misses a deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

The hearing officer may overturn the PHA's decision to terminate family's assistance on condition that the family takes certain corrective actions. If the family fails to take corrective actions by a deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

PHA Notice of Final Decision **[24 CFR 982.555(f)]**

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

If the PHA 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.

PHA Policy

If the PHA determines it is not bound by the hearing officer's decision, the PHA will mail a "Notice of Final Decision" to the participant and, when requested as a reasonable accommodation for a disabled or elderly family, to their representative. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Final Decision". A copy of the "Notice of Final Decision" will be maintained in the PHA's file.

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16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [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.

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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.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 15 business days of receiving the results.

The family must provide 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.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 15 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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.

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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.

PHA Policy

The family will be allowed to copy any documents related to the hearing. The family must request discovery of PHA documents no later than three business days 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 arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

PHA Policy

At the family's request, the PHA will provide an interpreter at no cost to the family. The family is permitted to use, at their own expense, an interpreter of their own choosing in place of or as a supplement to the free language services offered by the PHA.

The PHA may decide to provide its own, independent interpreter, even if the family chooses to use their own interpreter as well.

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.

PHA 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.

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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.

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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]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

PHA 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 with participants in accordance with the policies contained in this part as a means to recover overpayments.

The PHA will not offer to enter into repayment agreements with owners as a means to recover overpayments.

When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, collection agencies and filing a legal action.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

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16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

PHA Policy

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA's written notification of the debt to the owner. The PHA will not enter into a repayment agreement with an owner.

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

If the owner is not entitled to future HAP payments and refuses to repay the debt within the required time frame, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

PHA 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.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal 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

PHA Policy

Families will not be required to make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

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Payment Thresholds

PHA Policy

The repayment agreement's repayment terms shall be a monthly payment of amount of the family's choosing that is no less than $10 a month and no more than 10% of the family's monthly gross income. Monthly repayment terms may be no lower than $10, even if 10% of the family's gross monthly income is less than $10. A family may pay more than the stated repayment amount at any time. Any overpayments will be applied towards the total balance of the repayment agreement.

Each repayment agreement shall state the total amount owed, the monthly payment amount, the number of monthly payments due, and the date of the last payment.

Execution of the Agreement

PHA 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

PHA Policy

All payments are due by the close of business on the fifth day of the month. If the 5th day of the month does not fall on a business day, the due date is the close of business on the first business day after the 5th day of the month.

Non-Payment

PHA Policy

Families are permitted to skip payments two times in a 12-month period.

After the first skip, the PHA will send the family a written notice that payment was not received, and the new terms of the repayment agreement extended by one additional month.

After the second skip within a 12-month period, the PHA will send the family a written notice that full payment was not received, the new terms of the repayment agreement will be extended to account for the skip, and offering to renegotiate the terms of the repayment agreement if the monthly repayment amount is more than $10 a month. The second written notice must inform the family that they have 14 days to contact the PHA to renegotiate the terms of the repayment agreement and that, if no contact is made, the PHA will automatically adjust the terms of the repayment agreement to be $10 a month, if applicable.

If full payment is not received a third time within a 12-month period, the family will be in default of the repayment agreement. The PHA will terminate assistance in accordance with the policies in Chapter 12.

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No Offer of Repayment Agreement

PHA Policy

If the amounts owed by the owner exceed $4,999 and are not repaid by the owner within 30 days of the PHA determination of the debt, the amounts will be referred to HUD Office of Inspector General (OIG) for prosecution.

The PHA will not offer a repayment agreement to a family in the following limited circumstances:

- There is an active repayment agreement in place with the family that was the result of the same type of program violation by the same household member.
- The overpayment of subsidy is a result of fraud that would have made the family ineligible for the program. Fraud is defined as an act or pattern of actions done with the intent to deceive or mislead in order to gain an advantage. The act or action can include a false statement, omission, or concealment of a substantive fact. The following do not qualify as fraud:
    - An unintentional error
    - An omission or misreporting due to misunderstanding

Repayment Agreements Involving Improper Payments

Notice PIH 2018-18 requires certain provisions to 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.

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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].

PHA Policy (MTW)

The PHA participates in HUD's Moving to Work (MTW) program and submits Annual MTW Plan and Annual MTW Report to satisfy SEMAP reporting requirements.

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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].

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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 will not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • 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 for admission 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 sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • 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. • 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.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • 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.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • 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.

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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 more than 2 months overdue, according to data from PIC.

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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 prior to 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.

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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.

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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]

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.
- 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 a record of all emergency transfers requested under its emergency transfer plan under VAWA, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations [24 CFR 5.2005(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.

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16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA 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 HUD-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.*

PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

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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.

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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)]

The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

PHA Policy

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.

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 identified 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.

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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)(l) and 982.454]. 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

PHA 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, 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.

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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, Sexual Assault, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

  The length of the relationship

  The type of relationship

  The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse 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.

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- The term *affiliated individual* means, with respect to an individual:

  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

  Any individual, tenant or lawful occupant living in the household of that individual.

- The term *sexual assault* means:

  Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

- The term *stalking* means:

  Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (I) fear for the person's individual safety or the safety of others, or (2) suffer substantial emotional distress.

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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.

PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see Exhibit 16-1)

A copy of the notice to housing choice voucher owners of their rights and obligations under VAWA (see Exhibit 16-2)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

The services referral hot line to call for contact information for local victim advocacy groups or service providers: 211 or 503-222-5555.

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Notification to Program Applicants and Participants [24 CFR 5.2005(a)(l)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

PHA Policy

The PHA will provide all applicants with information about VAWA at the time of the briefing (see Section 5-I.B). The PHA will also include information about VAWA in all notices of denial of assistance (see Section 3-III.G).

The PHA will 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 notice in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

Notification to Owners and Managers

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA at least annually.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

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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, and Alternate Documentation), which must include the name of the perpetrator only if the name is safe to provide and is known to the victim

(2) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency

(3) Documentation signed by the victim and 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. 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 regulations at 24 Code of Federal Regulations (CFR) § 5.2003.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

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.

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The PHA does not require but may request two of the three forms of documentation listed above. Failure to provide the second form of documentation, if requested, is not grounds to deny relief for protection under VAWA.

Conflicting Documentation [24 CFR 5.2007(b)]

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) within 30 calendar days of the date of the request for the third-party documentation. The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) 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(b) and by following any HUD guidance on how such determinations should be made. The family will have 30 calendar days from the date of request by the PHA to provide this documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007]

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).

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence 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(a)]

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.

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16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(c)]

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 domestic violence, dating violence, sexual assault, or stalking, must be maintained 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 have access to the information unless explicitly authorized by the PHA 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 a PHA employee to provide the VAWA protections to the victim), and (3) may not disclose the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual (victim) in writing 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.

PHA Policy

If disclosure is required for use in an eviction proceeding or hearing regarding termination of program assistance, 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.

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EXHIBIT 16-1: HOME FORWARD[1] SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT[2] (VAWA) TO HOUSING CHOICE VOUCHER APPLICANTS AND PARTICIPANTS

This sample notice was adapted from Form HUD-5380

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.[3] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **the housing choice voucher program and the project-based 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 or the project- based 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.

Advocacy

The YWCA will provide support to victims and survivors of domestic violence who are receiving assistance under Home Forward's housing choice voucher or project-based voucher program. If you would like more information regarding resources available, please call 971-221-2555.

Additional contact information for local organizations and resources available to all tenants and applicants is included at the end of this notice.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program or the project-based 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.

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[1] The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

[2] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[3] 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.

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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 or the project-based voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

Your housing provider 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 housing provider chooses to remove the abuser or perpetrator, the housing provider 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 housing provider 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 housing provider must follow Federal, State, and local eviction procedures. In order to divide a lease, the housing provider 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, Horne Forward 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, Horne Forward 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

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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.

Home Forward 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.

Home Forward's emergency transfer plan provides further information on emergency transfers, and Home Forward 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

Home Forward or your landlord 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 Home Forward or your landlord must be in writing, and Home Forward or your landlord 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. Home Forward or your landlord 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 Home Forward or your landlord as documentation. It is your choice which of the following to submit if Home Forward or your landlord 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 Home Forward 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 he

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or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that Home Forward or your landlord has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, your housing provider does not have to provide you with the protections contained in this notice.

If Home Forward or your landlord 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), Home Forward or your landlord 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, your housing provider does not have to provide you with the protections contained in this notice.

Confidentiality

Home Forward and your landlord 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.

Home Forward and your landlord must not allow any individual administering assistance or other services on their behalf (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.

Home Forward and your landlord must not enter your information into any shared database or disclose your information to any other entity or individual. Home Forward or your landlord, however, may disclose the information provided if:

- You give written permission to Home Forward or your landlord to release the information on a time limited basis.
- Home Forward or your landlord 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 Home Forward or your landlord to release the information.

VAWA does not limit Home Forward's or your landlord'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, Home Forward and your landlord cannot hold tenants who have been

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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 Home Forward or your landlord 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 your housing provider can demonstrate the above, your housing provider 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 local HUD office at 971-222-2600.

For Additional Information

You may view a copy ofHUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, Home Forward must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your assigned Home Forward caseworker at 503-802-8333.

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 the following local organizations:

Gateway Center for Domestic Violence Services at 503-988-6400 or visit online at https://www.portlandoregon.gov/gatewaycenter/

Call to Safety Crisis Line at 503-235-5333

Services referral hotline at 211 or 503-222-5555 for contact information for local victim advocacy groups or service providers.

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.

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For help regarding sexual assault, you may contact the following local organizations:

Call to Safety Crisis Line at 503-235-5333

Sexual Assault Resource Center at 503-640-5311

Victims of stalking seeking help may contact the Gateway Center for Domestic Violence Services at 503-988-6400 or visit online at https://www.portlandoregon.gov/gatewaycenter/.

Attachment: Certification form HUD-5382

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EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS OF THEIR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a model notice prepared by the U.S. Department of Housing and Urban Development (HUD)

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 Home Forward'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)(l).)

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)(l)):
    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

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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).)

1. 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.)

11. 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)(l):

a. Form HUD-5382 (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

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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

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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).)

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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

Home Forward has extensive relationships with local service providers. Home Forward staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in Home Forward's Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan.

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.

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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:

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

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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 PBV percentage limitation (program cap), 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 project cap (which limits PBV assistance to the greater of 25 units or 25 percent of the units in a 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.

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PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

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, FR Notice 1/18/17]. 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)].

> PHA Policy (MTW)
>
> The PHA opted to eliminate a 20 percent of budget authority cap on project-based voucher allocations under the Moving to Work authority.

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 amount of budget authority 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]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, 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 to 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 fall into one of the categories listed above may be covered by this 10 percent exception authority only if the units are covered under a PBV HAP contract that was first executed on or after 4/18/17.

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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. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project based on a prior competition or without competition, the unit met at least one of the two following conditions:

  (i) The unit received one of the following forms of HUD assistance:

  (I) Public Housing Capital or Operating Funds (Section 9 of the 1937 Act);

  (II) Project-Based Rental Assistance (Section 8 of the 1937 Act). Project-based rental assistance under Section 8 includes the moderate rehabilitation program, including the single-room occupancy (SRO) program;

  (III) Housing for the Elderly (Section 202 of the Housing Act of 1959);

  (IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);

  (V) The Rent Supplement (Rent Supp) program (Section 101 of the Housing and Urban Development Act of 1965);

  (VI) Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or

  (VII) Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

  or

  (ii) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

  (I) Section 236;

  (II) Section 221(d)(3) or (d)(4) BMIR;

  (III) Housing for the Elderly (Section 202 of the Housing Act of 1959); or

  (IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving either PBV assistance or HCV tenant-based assistance are not covered by this exception. Both existing units and units rehabilitated under the PBV program are eligible for this exception if they meet the conditions outlined above. In addition, newly constructed units developed under the PBV program may also be excluded from the PHA

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program limitation, provided the newly constructed unit qualifies as a *replacement unit* as described in FR Notice 1/18/17 and FR Notice 7/17/17.

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.

PHA Policy (MTW)

The PHA will use its MTW authority to adapt its policies to specific buildings and/or programs utilizing project-based assistance.

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17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7] – cannot be waived by the MTW statute

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.

Relocation requirements for Section 8 Moderate Rehabilitation projects, including Mod Rehab Single Room Occupancy (SRO) projects as authorized by McKinney-Vento Homeless Assistance Act, converting to the PBV program under RAD (collectively, Mod Rehab conversions to PBV) are detailed in Notice PIH 2019-23.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8] – cannot be waived by the MTW statute

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).

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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]

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 proposals 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.

For Mod Rehab conversions to PBV under RAD, projects are selected in accordance with program requirements detailed in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply.

Units Selected Non-Competitively [FR Notice 1/18/17]

HOTMA allows a PHA to attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process, in cases where the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. FR Notice 1/18/17 outlines the conditions that must be met in order to be subject to this non-competitive exception.

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Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (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.

PHA Policy (MTW)

Joint Request for Proposals (RFP) Process

The PHA has modified owner proposal selection procedures for PBV units in order to increase Permanent Supportive Housing in the community by awarding PBV units via a local competitive process in collaboration with the City of Portland and Multnomah County. This local process includes issuing a Notice of Funding Availability and accepting proposals from housing developers and owners across the County. This effort ensures that PBVs are aligned with capital and services funding made available from the jurisdictional partners.

The proposals will be rated and ranked based on priorities and needs agreed upon within the community.

The NOFA Technical Assistance team, which consists of appointees from a cross-section of selected community agencies, will review proposals and make recommendations to the NOFA Executive Selection Committee. The Executive Selection Committee, consisting of representatives from PHB, PDC, Home Forward and Multnomah County, will review the proposals and make selection decisions.

Formal Request

The local competitive process may be waived and PBVs may be awarded based on a formal approval and resolution process by the PHA's Board of Commissioners when the property is owned directly or indirectly by the PHA, subject to HUD's requirements regarding subsidy layering. The owned units would not be subject to any required assessments for voluntary conversion.

Voter-Approved Affordable Housing General Obligation Bond Ballot Measures

From time to time, local jurisdictions may issue general obligation bonds to acquire, develop and rehabilitate land and/or properties for affordable housing. Given that local jurisdictions may be the only owner of such housing when using general obligation bonds, for this specific financing situation, the PHA designates voter-approved affordable housing general obligation bond ballot measures as a competitive process. The PHA will have permission to allocate project-based vouchers to such general obligation bond funded properties to ensure housing opportunities for very low- and extremely-low income families.

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PHA-Owned Units [24 CFR 983.51(e), 983.59, and Notice PIH 2015-05]

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. 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 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 re-determined 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.

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 Policy (MTW)

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. The MTW status will give the PHA the authority, with prior approval of the Board of Commissioners, to be eligible for award of project-based vouchers through the NOFA process, subject to local practices, without HUD authorization.

The local competitive process may be waived and PBVs may be awarded based on a formal approval and resolution process by the PHA's Board of Commissioners when the property is owned directly or indirectly by the PHA, subject to HUD's requirements regarding subsidy layering. The owned units would not be subject to any required assessments for voluntary conversion.

Voter-Approved Affordable Housing General Obligation Bond Ballot Measures

From time to time, local jurisdictions may issue general obligation bonds to acquire, develop and rehabilitate land and/or properties for affordable housing. Given that local jurisdictions may be the only owner of such housing when using general obligation bonds, for this specific financing situation, the PHA designates voter-approved affordable housing general obligation bond ballot measures as a competitive process. The PHA will have permission to allocate project-based vouchers to such general obligation bond funded properties to ensure housing opportunities for very low- and extremely-low income families.

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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.

PHA Policy

Within 20 business days of the Executive Selection Committee making the selection, the committee will notify the selected owner in writing of the owner's selection for the PBV program. The committee 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.

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 the award notifications have been sent to the owners. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

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 AHAP 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.

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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.

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17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14] – cannot be waived by the MTW statute

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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

Project Cap [24 CFR 983.56(a), FR Notice 1/18/17]

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 units (assisted or unassisted) in the project.

For Mod Rehab conversions to PBV under RAD, there is no cap on the number of units that may receive PBV assistance in each project. Section 8(o)(13)(D) of the 1937 Act and related provisions of 24 CFR 983.56, 983.257(b) and 983.262(a) and (d) do not apply (Notice PIH 2019-23).

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Exceptions to Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit project cap if:

- The units are exclusively serving elderly families
- The units are housing households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates
    - For these projects, 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].

Projects that are using the former statutory exemptions will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions to the HOTMA requirement. However, the PBV HAP contract may not be changed to the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at 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. The project must make supportive services available to all families receiving PBV assistance in the project, and the family must be eligible for one or more of the services. The family does not actually have to accept and receive supportive services for the exception to apply to the unit. 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 an excepted unit, although the family must be eligible to receive the supportive services, and the supportive services must be offered to the family. In the case of a family that chooses to participate in the supportive services and successfully completes the supportive services objective, the unit continues to be an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service.

PHA Policy (MTW)

The MTW authority allows the PHA to exceed the traditional 25 percent or 25-unit limit on PBV units is a single project. The PHA allows project-based vouchers to be awarded to more than 25 units or 25 percent of units in a given project.

The following types of services are encouraged at the projects with more than 25 PBV units or 25 percent of PBV units:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

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Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Eviction prevention and housing stabilization;

Supportive living for the mentally ill or other people with disabilities;

Domestic violence counseling;

Meals on Wheels;

Training in housekeeping and homemaking activities;

Family budgeting;

Child care;

Parenting skills;

Life skills;

Computer training;

Work skills development and job training.

The PHA will track services offered at the projects. The sponsor agencies may be required to submit a report to the PHA annually identifying the services received by each family.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

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. To qualify for the exception, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project without competition, the unit met at least one of the two following conditions:

(i) The unit received one of the following forms of HUD assistance:

(I) Public Housing Capital or Operating Funds (Section 9 of the 1937 Act);

(II) Project-Based Rental Assistance (Section 8 of the 1937 Act). Project-based rental assistance under Section 8 includes the moderate rehabilitation program, including the SRO program;

(III) Housing for the Elderly (Section 202 of the Housing Act of 1959);

(IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);

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(V) The Rent Supplement program (Section 101 of the Housing and Urban Development Act of 1965);

(VI) Rental Assistance Program (Section 236(f)(2) of the National Housing Act); or

(VII) Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

or

(ii) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

(I) Section 236;

(II) Section 221(d)(3) or (d)(4) BMIR;

(III) Housing for the Elderly (Section 202 of the Housing Act of 1959); or

(IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving PBV assistance are not covered by the exception. Both existing units or units rehabilitated under the PBV program are eligible for this exception if they meet the conditions outlined above. In addition, newly constructed units developed under the PBV program may also be excluded from the limitation, provided the newly constructed unit qualifies as a *replacement unit* as described in FR Notice 1/18/17 and FR Notice 7/14/17.

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 percent.

PHA Policy:

On a case-by-case basis, depending on families served and services provided, the PHA may impose any 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.

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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).

PHA Policy (MTW)

The PHA will use the City of Portland's location policy (or other local practices as appropriate) as the basis for selection process.

It is the PHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. When approving sites for PBV housing, the PHA will consider both local practices and site location in census tracts that have poverty concentrations of 20 percent or less.

The PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent.

For Mod Rehab conversions to PBV under RAD, Section 8(o)(13)(C)(ii) of the 1937 Act and 24 CFR 983.57(b)(1) and (c)(2) do not apply for the existing site (Notice PIH 2019-23).

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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

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- 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] – cannot be waived by the MTW statute

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.

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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)] – cannot be waived by the MTW statute

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

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 **(cannot be waived by the MTW statute)**.

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)

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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)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

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.

If more than 20 percent of the sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

> PHA Policy
>
> At least annually during the term of the HAP contract, the PHA will 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.
>
> If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA will reinspect 100 percent of the contract units in the building.
>
> PHA Policy (MTW)
>
> In coordination with the Streamlining Compliance project for the State of Oregon, select PBV units will be inspected according to agreed upon parameters / agencies / forms / standards.
>
> Generally, Uniform Physical Condition Standards (UPCS) will be used. Identifying family, unit and address information, as well as inspection results will be shared among the interacting agencies via a shared database.
>
> A Memorandum of Understanding will be signed by all interacting agencies.

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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.

PHA Policy (MTW)

The PHA will verify corrective actions in accordance with the policies in Section 8-II.F.

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 agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PHA Policy (MTW)

The PHA opted to inspect its own units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of the inspections conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

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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)].

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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.

PHA Policy

The PHA will enter into the Agreement (agreement to enter into HAP contract) with the owner within 15 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

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17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)] – cannot be waived by MTW statute

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)] – cannot be waived under MTW statute

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.

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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.

> PHA 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.

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PART V: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

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 project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

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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). 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 contract, and the owner furnishes all required evidence of completion.

PHA Policy

For existing housing, the HAP contract will be executed within 15 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 15 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP contract, all units meet HQS, and the owner has submitted all required evidence of completion.

In addition to the HAP contract, the PHA and the owner will execute a Memorandum of Understanding.

For Mod Rehab conversions to PBV under RAD, the RAD rider (Form HUD-52611) must be attached to PBV HAP Contract for existing housing when the project qualifies as PBV "existing housing" under 24 CFR 983.3.

Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17]

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 (instead of the prior 15-year limitation) 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)].

PHA 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

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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)].

Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

By choosing to participate in the RAD program, the PHA and owner agree to an initial HAP contract term of 20 years. The PHA may agree to enter into an extension of the initial HAP contract term with the owner at any time during the initial term. The PBV HAP contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.

PHA 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, Memorandum of Understanding 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); 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 (i.e., terminating the HAP contract).

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.

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Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

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 a contract that is not extended, a family living at the property is entitled to receive a tenant-based voucher (the voucher that was previously providing project-based assistance for the family in the PBV project). 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. For families that wish to remain at the property, the HCV tenant-based assistance would not commence until the owner's required notice period ends.

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.

PHA 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.

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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.

PHA Policy

If the PHA subsidy for a PBV family drops to zero based on family's income and remains at zero for 180 consecutive calendar days, the owner of a PBV unit occupied by the zero-subsidy family may:

- Request PHA approval to amend the PBV contract to substitute a different unit with the same number of bedrooms in the same project for the unit occupied by a zero-subsidy family, or
- Request to amend the PBV contract to remove the unit occupied by a zero-subsidy family from the contract reducing the number of assisted PBV units under the contract.

Addition of Contract Units [24 CFR 983.207(b), FR Notice 1/18/17]

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 the 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 its intent to add PBV units in this manner in its administrative plan, along with its rationale for adding PBVs to the specific PBV project.

PHA Policy

The PHA will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families);

Voucher holders are having difficulty finding units that meet program requirements;

The local Veterans Administration Veterans Affairs Supportive Housing (VASH) program staff believes adding project-based VASH will increase housing opportunities for veterans served by VASH.

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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.

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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.

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17-V.F. ADDITIONAL HAP CONTRACT 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.

PHA 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, the HAP contract and Memorandum of Understanding.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

PHA Policy

The PHA will 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.

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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.

> PHA Policy (MTW)
>
> The PHA will use its MTW authority in a manner that will provide greater access to the PBV program to low-income families with barriers. Screening and eligibility criteria may be different from the requirements for the tenant-based voucher program.
>
> The PHA will determine an applicant family's eligibility for the PBV program based on the capacity of the service provider and specific population agreed to be served in HAP contract and Memorandum of Understanding for each specific property. Partnerships with service providers and specific requirements, as laid out in HAP contract and Memorandum of Understanding, will enable the PHA to provide housing assistance to otherwise ineligible applicants.
>
> The PHA will follow the regulations governing restrictions on assistance to noncitizens in accordance with policies in Section 3-II.B **(cannot be waived by the MTW statute)**.

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Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

No Rescreening of Tenants upon Conversion

At conversion, current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the covered project, current households in the converting project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion. These protections also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the covered project. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy. A unit with a household that was over-income at the time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR 982.201, concerning income eligibility and income targeting of tenants at initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the project owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions. Additionally, any owner-adopted preference shall not apply to any current resident.

Single Room Occupancy (SRO) projects (as authorized by McKinney-Vento Act)

For any new families referred to the PBV project following conversion, the PHA may choose not to apply discretionary screening criteria to admission policies for converting SRO properties. The PHA must apply all mandatory screening criteria.

PHA Policy

The PHA will not apply discretionary screening criteria to admission policies for converting McKinney-Vento SRO properties.

The PHA administers assistance for the following McKinney-Vento SRO properties:

- The Rose Apartments
- Ankeny Square
- Sally McCracken Building
- Rosewood Building
- Barbara Maher Building

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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.

PHA Policy (MTW)

The owners will establish and maintain separate waiting lists for individual projects or buildings that are receiving PBV assistance. 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 owner will place the in-place family on the 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 will be given an absolute selection preference.

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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 PBV 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.

PHA Policy (MTW)

The owners will establish and maintain separate waiting lists for individual projects or buildings that are receiving PBV assistance. The owner must accept applications from anyone who chooses to apply.

The owner must procure a time clock, and all applications must be date and time stamped by machine. In addition, the owner must maintain a separate written or computer log documenting applicant name, social security number, and date and time of the application. The owner must provide a copy of the list to the PHA at least monthly.

The owner must include in its housing plan a policy on removing names from the waiting list, the dispute procedures, and reasonable accommodation processes for applicants with disabilities. The owner will provide to the PHA a list of applicants who were rejected, including applicant name, social security number, and application date. Documentation of the reason for rejection must be attached to the application form and available for audit. The owner must keep rejected application on file for three years.

All applications must be maintained in such order that allows the PHA to audit the waiting list. The PHA will give a written notice of audit to the owner. The PHA shall have full and free access to the premises and any records pertinent to the maintenance of the waiting list, including access to any computers, equipment, or facilities containing such records.

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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner may use either a time-and-date or other selection order that was approved for the project in the initial NOFA which was the basis for the PBV award and is specifically stated in the owner's housing plan and internal operating policies.

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Subsidy Standards

PHA Policy (MTW)

The owner must use the PHA's subsidy standards for tenant-based assistance in accordance with policies in Section 5-II to select applicants from the waiting list to fill vacant PBV units of appropriate sizes.

If there are no families on the waiting list that are eligible for vacant PBV units based on the PHA's subsidy standards, the owner may request PHA approval for an exception to subsidy standards allowing them to select the next largest sized family on the waiting list with the family size that meets the following criteria: (1) the unit will not be overcrowded based on HQS space standards and (2) there is a minimum of one family member per bedroom (unless an additional bedroom is requested by the family as a reasonable accommodation and is approved by the PHA in writing).

The PHA will evaluate the requests on a case-by-case basis. In deciding whether to grant approval, the PHA will consider an audit outcome showing that the owner has taken appropriate steps to market large units and is maintaining the waiting list in accordance with HUD regulations and PHA requirements.

Example: The owner has to select a family from the waiting list to fill a vacant four-bedroom unit. Before selecting a four-person family (one family member per bedroom), the owner must select families with more than four persons, in this order:

Option 1 — Select a family of 8 to 6 members that is closest to the top of the list and qualifies for a four-bedroom unit based on the PHA's subsidy standards (one bedroom for a single head of household or for married or unmarried persons living together in a spousal relationship, and one bedroom for each two persons thereafter, regardless of age or sex).

If there are no families on the waiting list that qualify for a four-bedroom unit based on the PHA's subsidy standards, request PHA approval for an exception to subsidy standards allowing to select the next largest sized family.

If PHA granted approval, select the next largest sized family in this order:

Option 2 — Select a family of 5 (if there is more than one family of 5, select the family closest to the top of the list)

Option 3 — Select a family of 4 (if there is more than one family of 4, select the family closest to the top of the list)

No further options.

Families that are selected from the waiting list based on these criteria and approved to move into vacant PBV units will be deemed qualified for that unit size.

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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.

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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 persons with a specific disability. Any individual who is qualified for the services must be able to receive the preference, including qualified individuals with disabilities, regardless of disability type [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", the PHA must give preference to qualifying families when referring families to these units [24 CFR 983.261(b), FR Notice 1/18/17].

Mod Rehab SRO Conversions to PBV under RAD [Notice PIH 2019-23]

For RAD SRO PBV conversions, the PHA must establish an admissions preference for converted properties for homeless individuals or families. The preference must apply to individuals or families that fall within the definition for homeless established by the McKinney-Vento Homeless Assistance Act and contained in the Continuum of Care Interim Rule at 24 CFR 578.3. The preference shall not apply to current residents because these residents will continue to be assisted after conversion, but will otherwise be an absolute preference with higher priority than any other preference established by the PHA. This requirement shall apply for the term of the contract and any renewal contract.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will 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).

The owner will provide a selection preference to a family receiving PBV assistance in another building if the PHA determines that the family is occupying a unit that is overcrowded to the extent that it is in violation of housing quality 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, and there are no available PBV units in the same building.

Preferences must be in accordance with the response to the initial NOFA which was the basis for the PBV award. Preferences must be specifically stated in the owner's housing plan and internal operating policies.

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For RAD SRO PBV conversions, all converted properties must establish an admissions preference for converted properties for homeless individuals or families. The preference shall not apply to current residents because these residents will generally continue to be assisted after conversion, but will otherwise be an absolute preference with higher priority than any other preference established by the owner. This requirement shall apply for the term of the contract and any renewal contract.

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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).

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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(b)].

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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will conduct tenant screening in accordance with requirements of this chapter and will refer suitable families to the PHA for program eligibility determination.

The owner will lease contract units to eligible families certified by the PHA. The family is responsible for paying security deposit to the owner. The family has to sign a written agreement to follow the building rules.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

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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.

PHA Policy

If any contract units have been vacant for 120 days and the owner/manager failed to refer families to the PHA for program eligibility determination, the PHA may give notice to the owner that the HAP contract can 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.

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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.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, 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.

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PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined suitable by the owner, determined eligible by the PHA, 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.

> PHA Policy
>
> The PHA will not provide a model lease. 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.

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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 definite terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. The term of the lease terminates if any of the following occurs:

- 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; or
- The PHA terminates assistance for the family.

PHA Policy (MTW)

The initial lease term must be for one year. After the initial term, the lease will convert to a month-to-month agreement unless the owner and tenant agree to a longer term. The owner may not refuse to renew the lease without cause.

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.

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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 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

PHA Policy (MTW)

The owner of a PBV or a moderate rehabilitation unit may terminate tenancy for cause.

The owner of a PBV or a moderate rehabilitation unit may not terminate tenancy without cause, except as follows:

- If the PHA subsidy for a PBV family drops to zero based on family's income and remains at zero for 180 consecutive calendar days, the owner of a PBV unit occupied by a zero-subsidy family may do one of the following:
    1. Terminate tenancy for a zero-subsidy family 180 calendar days after the last housing assistance payment to the owner in order to ensure that another low-income applicant can be served;
    2. Request PHA approval to amend the PBV contract to substitute a different unit with the same number of bedrooms in the same project for the unit occupied by a zero-subsidy family; or
    3. Request a PBV contract amendment to remove the unit occupied by a zero-subsidy family from the contract reducing the number of assisted PBV units under the contract.
- The owner of a PBV or a moderate rehabilitation unit must terminate tenancy if the family is absent from the unit for more than 60 consecutive calendar days and the PHA terminated family's assistance.
- The owner of a PBV or a moderate rehabilitation unit must terminate tenancy if the PHA terminated family's assistance for any reason.
- If a PBV unit is a floating unit and assistance is not attached to a specific unit, the owner may choose not to terminate tenancy without cause for the above reasons.

Whether the owner of a PBV unit chooses to terminate tenancy or not, the total number of contract PBV units must be filled with eligible PBV participant families in good standing with the PHA.

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Continuation of Housing Assistance Payments [24 CFR 983.258]

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.

PHA 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.

PHA Policy

The owner may collect a security deposit. The deposit amount may not exceed amounts charged in the private market or for other unassisted units in the building.

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 form the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

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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.

PHA Policy (MTW)

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a unit that is accessible or is overcrowded to the extent that it is in violation of housing quality standards within 15 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 a family is occupying a unit that is too large (there is less than one person per bedroom and the PHA has not approved an additional bedroom as a reasonable accommodation), the PHA will notify the family and the owner within 15 business days of the PHA's determination. The PHA will offer the family the following options:

Move to an appropriate size PBV unit in the same building or project;

Stay in the same PBV unit and pay the difference in rent.

If neither option is available, the PHA will give the family a 60-day notice of termination of assistance. The PHA will terminate the housing assistance payments at the expiration of this 60-day period. The family may re-apply for assistance when the waiting list is open.

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.

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If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the family is required to move, and the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 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 60-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 60-day period.

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.

Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

Under-Occupied Units

If a family is in an under-occupied unit under 24 CFR 983.260 at the time of conversion, the family may remain in the unit until an appropriately-sized unit becomes available in the covered project. A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the covered project. When an appropriately-sized unit becomes available in the covered project, the family living in the under-occupied unit must move to the appropriately-sized unit within a reasonable time, as determined by the PHA.

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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.

> PHA Policy (MTW)
>
> The PHA will allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA will not give the family priority on the HCV waiting list.

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17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262, FR Notice 1/18/17]

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 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
- 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
    - For these projects, 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 PHA may not require participation in the supportive services as a condition of living in an excepted unit, although the family must be eligible to receive the supportive services, and the supportive services must be offered to the family. As such, the PHA may not rely solely on a supportive services program that would require the family to engage in the services once enrolled, such as FSS, for the unit to qualify for the supportive services exception. In the case of a family that chooses to participate in the supportive services and successfully completes the supportive services objective, the unit continues to be an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service. However, if a family becomes ineligible for the supportive services during their tenancy (for reasons other than successfully completing the supportive services objective), the unit will no longer be considered an excepted unit under this category. The family would have to be ineligible for all the supportive services made available for the unit to lose its excepted status. If the PHA does not want to reduce the number of excepted units in their project-based portfolio, the PHA may: (i) substitute the excepted unit for a non-excepted unit if it is possible to do so in accordance with 24 CFR 983.207(a), so that the unit does not lose its excepted status, or (ii) temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance [FR Notice 7/14/17].

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 the unit, where through circumstances beyond the control of the family (e.g., death 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 count 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 qualifying family.

PHA Policy (MTW)

The MTW authority allows the PHA to exceed the traditional 25 percent or 25-unit limit on PBV units is a single project. The PHA allows project-based vouchers to be awarded to more than 25 units or 25 percent of units in a given project.

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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.

For Mod Rehab conversions to PBV under RAD, the applicable FMR used for SRO units for initial and re-determined rents shall be the zero-bedroom FMR (Notice PIH 2019-23).

PHA Policy (MTW)

At any time, the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed applicable payment standard for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Ongoing approved rent to owner will never fall below the initial rent to owner approved for a PBV project.

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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 building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 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 building 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 accordable 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 accordable 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.

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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 standard 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.

PHA Policy (MTW)

Upon written request by the owner, the PHA will consider using the payment standard 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 payment standards 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 payment standard 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.

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Payment Standards for Service-Enriched Buildings

PHA Policy (MTW)

The PHA may use an alternate rent setting policy that will allow the Director of Rent Assistance, with Board approval, to set payment standards that are greater than 110 percent (up to a maximum of 150 percent) of the applicable FMR, without requesting HUD approval, for service-enriched buildings.

For buildings entering into the new PBV contracts, the request for an alternate payment standard must be submitted and approved prior to entering into a HAP contract between the PHA and the owner for PBV units. For buildings under an existing PBV contract, the request for an alternate payment standard must be submitted and approved 60 days prior to the anniversary date of the HAP contract.

Financial impact information will be required of owners serving the population and must show that the property cannot sustain the service model without additional revenue. Data will be required of the owner to verify the value of services being provided and show that the services will directly benefit PBV participants.

Director of Rent Assistance and Chief Operating Officer have discretion to approve/disapprove all requests based upon financial capacity of the HCV program, local housing needs, documentation submitted by the owner, and other factors.

The payment standard granted will apply to all units under the PBV contract serving a highly vulnerable population with intensive services.

The cost of the services will not be included when conducting rent reasonableness determinations.

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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).

PHA Policy (MTW)

An owner's request for a rent increase must be submitted to the PHA 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

In the event that the rent to owner for a PBV unit was initially approved at a rate exceeding the rent limits previously described in this section, a rent increase request will be denied but the rent to owner will not be decreased.

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.

PHA Policy

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

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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.

PHA Policy (MTW)

The PHA opted to determine the initial rent to owner and the annual redetermination of rent for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of initial determination and annual redetermination of rent conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of initial determination and annual redetermination of rent by a third-party outside agency.

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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 Policy (MTW)
>
> The PHA will perform comparability analysis in accordance with the policies in Section 8-III.D.

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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.

PHA Policy (MTW)

The PHA opted to determine rent reasonableness for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of rent reasonableness determinations conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of rent reasonableness determinations by a third-party outside agency.

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.

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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) 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 **(cannot be waived by the MTW statute)**.

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.

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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.

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.

> PHA Policy
>
> If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

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At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 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.

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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.

PHA Policy (MTW)

The PHA will use its MTW HCV calculation method to determine the tenant rent and the PHA subsidy amount. For a discussion on rent and subsidy determination, see Chapter 6.

For families currently residing in PBV units using different calculation methods, those methods will convert to the HCV calculation at the time of the next regular recertification.

When the PHA revises its payment standards during the term of the PBV Housing Assistance Payments Contract, it will apply the new payment standards as follows:

- If the amount of the payment standard is increased during the term of the PBV Housing Assistance Payments Contract, the increased payment standard will be used to calculate the monthly housing assistance payment for all PBV units beginning on the first anniversary date of the PBV Housing Assistance Payments Contract following the effective date of the increase in the payment standard.
- If the amount of the payment standard is decreased during the term of the PBV Housing Assistance Payments Contract, the decreased payment standard will be used to calculate the monthly housing assistance payment for all PBV units beginning on the second anniversary date of the PBV Housing Assistance Payments Contract following the effective date of the decrease in the payment standard.

Any changes to the utility allowances will be applied at the same time as the payment standard adjustments.

Mod Rehab Conversions to PBV under RAD

Regardless of age / disability, households residing in converted RAD Mod Rehab projects meet the definition of *Senior and People with Disabilities Household* in regard to rent calculation under rent reform.

The tenant rent and PHA subsidy amounts for households in converted RAD Mod Rehab projects will be determined as follows:

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

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For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

Revised utility allowances will be applied to the family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

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.

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Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

> PHA Policy (MTW)
>
> The PHA will make utility reimbursements to eligible families in accordance with policies in Chapter 6.

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.

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Chapter 18

PROJECT BASED VOUCHERS (PBV) FOR PUBLIC HOUSING CONVERSIONS TO THE PBV PROGRAM UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

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PART I: GENERAL REQUIREMENTS

18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

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18-I.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-2 (issued June 15, 2015) and Notice PIH 2012-32, REV-3 (issued January 12, 2017).

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), and Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. Notice PIH 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.
- Notice PIH 2012-32, REV-2, RAD – Final Implementation,REV-2 is applicable to projects converting assistance through RAD upon the expiration of the 30-day comment period after publication of the Notice. PIH Notice 2012-32, REV-2 was published June 15, 2015.

NOTE: The policies in this chapter follow Notice PIH 2012-32, REV-3.

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- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demontration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016 , AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

NOTE: The policies in this chapter follow Notice PIH 2016-17.

- RAD FAQs (http://www.radresource.net/search.cfm)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

PHA Policy (MTW)

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

The PHA will use its MTW authority to adapt its policies to specific buildings and/or programs utilizing PBV assistance. The PHA will apply activities impacting the PBV program that are approved in its MTW Plan to RAD PBVs as noted in this chapter, provided they do not conflict with RAD requirements.

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18-I.D. RELOCATION REQUIREMENTS [Notice PIH 2016-17]

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broaded than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

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Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tatics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

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18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2012-32, REV-3]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

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PART II: PBV PROJECT SELECTION

18-II.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2012-32, REV-3]

Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. The requirement for a public or non-profit entity is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.

If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member;
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
- The PHA retains control over leasing the property and determining program eligibility;
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
- Other means that HUD finds acceptable

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18-II.C. PHA-OWNED UNITS [24 CFR 983.59; Notice PIH 2012-32, REV-3; FR Notice 1/18/17]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

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.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

> PHA Policy (MTW)
>
> The PHA opted to perform rent setting and inspection functions for the PHA-owned units under the Moving to Work authority.
>
> The PHA will contract an outside agency to conduct a five percent quality control test of the rent setting and inspections conducted by the PHA when buildings are owned and managed by the PHA.
>
> Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of the rent setting and inspections by a third-party outside agency.

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18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2012-32, REV-3]

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:

- Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA close-out reserve). Any funds not needed for public housing close-out costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

18-II.E. PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3]

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

There is no cap on the number of units that may receive PBV assistance in a project.

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18-II.F. SITE SELECTION STANDARDS [Notice PIH 2012-32, REV-3; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2012-32, REV-3]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted as part of the financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2012-32, REV-3.

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PART III: DWELLING UNITS

18-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

18-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)

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18-III.D. INSPECTING UNITS

Initial Inspection [Notice PIH 2012-32, REV-3]

Under RAD, all units must meet HQS no later than the date of completion of the work as indicated in the RCC.

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.

PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with 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.

PHA Policy (MTW)

In coordination with the Streamlining Compliance project for the State of Oregon, select PBV units will be inspected according to agreed upon parameters / agencies / forms / standards.

Generally, Uniform Physical Condition Standards (UPCS) will be used. Identifying family, unit and address information, as well as inspection results will be shared among the interacting agencies via a shared database.

A Memorandum of Understanding will be signed by all interacting agencies.

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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.

PHA Policy (MTW)

The PHA will verify corrective actions in accordance with the policies in Section 8-II.F.

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 agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PHA Policy (MTW)

The PHA opted to inspect its own units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of the inspections conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

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PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18-IV.A. OVERVIEW

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide (10/14)]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2012-32, REV-3]

The initial term of the HAP contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of 15 years, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2012-32, REV-3]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

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Mandatory Contract Renewal [Notice PIH 2012-32, REV-3]

By statute, upon contact expiration, the agency administering the vouchers must offer, and the project owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently, 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply to the extent that these provisions make renewal or extension decisions purely discretionary.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for 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.

PHA Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance 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.

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18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2012-32, REV-3]

In certain mixed-finance projects, the PHA may ask HUD permission to have assistance float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

Reduction in HAP Contract Units [Notice PIH 2012-32, REV-3]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where "floating" units have been permitted.

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

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18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, he or she 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 (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

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18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy

The PHA will 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.

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PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2012-32, REV-3]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2012-32, REV-3 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

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18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, 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.

PHA Policy (MTW)

The PHA will use its MTW authority in a manner that will provide greater access to the PBV program to low-income families with barriers. Screening and eligibility criteria may be different from the requirements for the tenant-based voucher program.

The PHA will follow the regulations governing restrictions on assistance to noncitizens in accordance with policies in Section 3-II.B.

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18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2012-32, REV-3]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

PHA Policy (MTW)

The owners will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

The applicants on the public housing site-based waiting list at the time of conversion will be transferred to the PBV site-based waiting list and will have priority for occupancy at the converted site within each preference category over applicants that applied after conversion.

The owner will maintain the waiting list for the converted project in accordance with policies in this chapter and tenant selection plan for the project.

For any applicants selected from the RAD PBV waiting list that are ineligible for admission to a covered project because the household's TTP exceeds the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists.

To the extent any waiting list relies on the date and time of application, the applicants will have priority on the waiting lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the site-based waiting lists in accordance with all applicable civil rights and fair housing laws and regulations.

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18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

PHA Policy (MTW)

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the owner's waiting list in accordance with the tenant selection plan for the converted project.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2012-32, REV-3]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2012-32, REV-3]

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 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 persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

PHA Policy (MTW)

Applicants who will occupy units with RAD PBV assistance must be selected from the owner's waiting list in accordance with the tenant selection plan for the converted project.

If the PHA determines that a RAD PBV 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, and there are no available RAD PBV units in the same project, the owner will provide a selection

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preference to the family in another PHA-managed RAD PBV project or at a PHA-managed public housing property.

Preferences must be specifically stated in the owner's tenant selection plan and internal operating policies.

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18-V.F. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

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18-V.G. 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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will conduct tenant screening in accordance with requirements of this chapter and will refer suitable families to the PHA for program eligibility determination.

The owner will lease contract units to eligible families certified by the PHA. The family is responsible for paying security deposit to the owner. The family has to sign a written agreement to follow the building rules.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

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18-V.H. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

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PART VI: OCCUPANCY

18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18-VI.B. LEASE [24 CFR 983.256; Notice PIH 2012-32, REV-3]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2012-32, REV-3]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of Notice PIH 2012-32, REV-2.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

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Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definite terms (e.g., month-to-month or year-to-year) or for an automatic indefinite extension of the lease term. The term of the lease terminates if any of the following occurs:

- 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.

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Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner. See Chapter 16 Part III: Informal Reviews and Hearings for more information.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

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Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2012-32, REV-3]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time that the family's TTP falls below the gross rent, the rent to owner for the unit will equal the lesser of the family's TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if the family's TTP falls below the gross rent and HAP is paid on their behalf. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180 day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

PHA Policy

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

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Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

PHA Policy

The owner may collect a security deposit. The deposit amount may not exceed amounts charged in the private market or for other unassisted units in the building.

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.

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18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2012-32, REV-3]

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 current fiscal year (FY) PH FSS notice of funding availability (NOFA), to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV, and PBRA participants in its FSS program.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2012-32, REV-3]

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.

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18-VI.E. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]

All in-place tenants at the time of conversion are eligible to remain in the project. If a family is in an under-occupied unit at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the covered project. When an appropriate-sized unit becomes available in the covered project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the PHA. Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA will notify the RAD PBV family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 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 RAD PBV project

If there are no appropriate-size units in the same project, PBV assistance in another PHA-managed RAD PBV project or occupancy of a public housing unit at a PHA-managed property

If an appropriate-size unit is not available within six months from the PHA's determination of the family's need to move, the PHA will offer the family the opportunity to receive tenant-based voucher assistance at the end of the six-month period.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

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If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 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 60-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 60-day period.

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.

The family may choose to remain in a smaller unit if the unit is not overcrowded to the extent that it is in violation of the housing quality standards. If the family chooses to remain in the smaller unit, it will not be allowed to request a transfer due to subsidy standards at a later date unless there is another change in the household size.

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.

For PBVs entered into outside of the context of RAD, the PHA uses its MTW authority to allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA does not give the family priority on the HCV waiting list. (See PHA policy in Section 17-VII.C.

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Choice Mobility [Notice PIH 2012-32, REV-3]

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 lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

PHA Policy

This policy applies only to RAD PBV families residing in covered projects. This policy does not apply to PBVs entered into outside of the context of RAD.

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement at a RAD PBV project.

The PHA will place RAD PBV families wishing to exercise mobility on the tenant-based HCV waiting list in the order in which the requests from eligible families were received. RAD PBV families wishing to exercise choice mobility will be given priority over other families on the tenant-based waiting list. If the family does not utilize a voucher and continues occupancy in the RAD PBV assisted unit at the converted project, the family may request a new voucher twelve months after the previous voucher expired. The family must be residing in a RAD PBV unit at the time of voucher issuance.

For PBVs entered into outside of the context of RAD, the PHA uses its MTW authority to allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA does not give the family priority on the HCV waiting list. (See PHA policy in Section 17-VII.C.)

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Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the families are placed on the waiting list in the order in which the requests from eligible families were received.

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18-VI.F. REEXAMINATIONS [PBV Quick Reference Guide (10/14)]

A family living in a unit undergoing a conversion of assistance from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2012-32, REV-3]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

PHA Policy (MTW)

The EID exclusion has been eliminated as part of the PHA's rent reform initiative.

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18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2012-32, REV-3]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV require that PHAs provide adequate written notice of termination of the lease, which shall be:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2012-32, REV-3]

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a project 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 project owner will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the project owner or contract administrator.

The project owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(vi). (See Chapter 16)

The project owner must provide an opportunity for an informal hearing before an eviction.

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PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2012-32, REV-3]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2012-32, REV-2. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.

Initial contract rents cannot exceed the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in a PHA's MTW Plan), minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner

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18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]

Contract rents will be adjusted annually by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent may not be reduced below the initial contract rent for units under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

<u>PHA Policy</u> (MTW)

The PHA opted to determine the initial rent to owner and the annual redetermination of rent for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of initial determination and annual redetermination of rent conducted by the PHA when buildings are owned and managed by the PHA.

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Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of initial determination and annual redetermination of rent by a third-party outside agency.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

18-VII.C. UTILITY ALLOWANCES [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.

After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. These utility allowances are effective for in-place families at recertification.

PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD developments.

After conversion, revised utility allowances will be applied to a family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

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18-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

> PHA Policy (MTW)
>
> The PHA will perform comparability analysis in accordance with the policies in Section 8-III.D.

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.

> PHA Policy (MTW)
>
> The PHA opted to determine rent reasonableness for the PHA-owned units under the Moving to Work authority.
>
> The PHA will contract an outside agency to conduct a five percent quality control test of rent reasonableness determinations conducted by the PHA when buildings are owned and managed by the PHA.
>
> Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of rent reasonableness determinations by a third-party outside agency.

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PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

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18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the PHA will notify the owner of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

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18-VIII.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.

The PHA's rent reform initiative has established a rent and subsidy calculation methodology that distinguishes between two household types: seniors / people with disabilities and the work-focused households. Rent and subsidy amounts are determined based on a household type and year of participation in the rent reform. This section explains how rent and subsidy are determined for RAD PBV households. The household types, TTP formula, and minimum tenant rent are defined in Section 6-III.C.

PHA Policy (MTW)

Beginning in November 2021, the tenant rent and subsidy amounts for RAD PBV households will be determined as follows for all household types:

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

Previously, the tenant rent and PHA subsidy amounts for RAD PBV households were determined as described below.

For seniors and people with disabilities households, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

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When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For work-focused households, the PHA subsidy and tenant rent to owner will be determined as follows:

For years 1 and 2, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For years 3 and greater, a maximum monthly HAP for a family is the gross rent minus TTP.

The tenant rent to owner is the greater of the following amounts:

- The rent to owner minus maximum monthly HAP for a family, or
- Minimum tenant rent

For mixed families, the tenant rent will be increased by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of the following amounts:

- Maximum monthly HAP for a family, or
- The rent to owner minus the tenant rent to owner.

Utility reimbursements to the family are not allowed.

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.

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Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

> PHA Policy (MTW)
>
> The PHA will make utility reimbursements to eligible families in accordance with policies in this section.

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18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2012-32, REV-3]

For in-place tenants, 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 three or five years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

PHA Policy (MTW)

For purposes of this policy, "standard TTP" refers to the TTP calculated in accordance with policies in Chapter 6 and the "most recently paid TTP" refers to the TTP recorded on the family's most recent Form HUD-50058.

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 a period of three years. The PHA will implement the phase-in as follows:

Year 1: Twelve months after conversion – 33 percent of difference between most recently paid TTP and the standard TTP at the start of Year 1 and any recertification prior to Year 2

Year 2: Twenty-four months after conversion – 66 percent of difference between most recently paid TTP and the standard TTP at the start of Year 2 and any recertification prior to Year 3

Year 3: Thirty-six months after conversion – full standard TTP at the start of Year 3 and all subsequent recertifications.

Note: Once the tenant's standard TTP is equal to or less than the previous TTP, the phase-in ends and the tenant will pay the full TTP from that point forward. For example, if a tenant's previous TTP was $300 and their new (standard) TTP is reduced to $200 because of loss of income, the phase-in will end.

18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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Chapter 19

SPECIAL PROGRAMS

INTRODUCTION

The PHA uses a Moving to Work Initiative Funds (MIF) to implement special initiatives that accomplish the statutory objectives outlined it the MTW agreement. The fund was created from fungible dollars received via the PHA's MTW block grant funding.

This chapter provides an overview of MIF initiatives administered and / or being developed within the Rent Assistance department that are not referenced in other chapters of this plan.

All initiatives are described in detail in HUD-approved MTW plans and reports. All initiatives are focused on the three MTW objectives:

- Reduce cost and achieve greater cost effectiveness in federal expenditures;
- Give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient;
- Increase housing choices for low-income families.

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PART I: OVERVIEW OF SPECIAL PROGRAMS

19-I.A. LOCAL BLENDED SUBSIDY

The PHA uses its MTW authority to create a Local Blended Subsidy (LBS) program at existing mixed-finance sites and, as available, at new or rehabilitated units. The LBS program will use a blend of MTW Section 8 and public housing funds to subsidize units reserved for families earning 80 percent or below of area median income. The units may be new construction, rehabilitated, or existing housing.

Amount of LBS Payment

The monthly amount of LBS payment for a subsidized unit is equal to the amount by which the contract rent exceeds the sum of tenant rent and public housing operating subsidy. MTW Plan states that the contract rent will not exceed 125% of HUD's Fair Market Rent (FMR). Generally the objective of LBS is to establish contract rent equal to the established payment standard for the applicable unit size. Established rents will be justified using rent reasonableness testing. The tenant rent is determined in accordance with public housing rules and regulations as modified by the MTW plan.

Adjustments to LBS payments due to retroactive changes in tenant rent or public housing operating subsidy amounts will be made through a quarterly and annual true-up process conducted by the Finance and Accounting department and approved by the Director of Rent Assistance or designee.

Vacancy Loss Payments

If a family moves out of a contract unit, the unit will be eligible for a vacancy loss payment for a maximum of one month following the move-out month. The amount of vacancy loss payment is equal to the contract rent minus public housing operating subsidy.

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19-I.B. PROGRAM BASED ASSISTANCE

The PHA is merging two past activities (Short Term Rent Assistance and Agency Based Assistance) into a single local rent assistance program. The PHA sets aside a pool of MTW block grant funding to serve households with rent assistance and other services in a variety of ways. The funds serve targeted populations, usually in partnership with one or more local service providers who ensure that the families are receiving the supportive services they need to be stable and successful. Funds may be contracted to partner agencies to administer or may be administered by the PHA on behalf of partner agencies. In both cases, partner agencies are responsible for identifying participating families and determining the amount and duration of the rental assistance.

This initiative allows the PHA to reach more households, and sometimes different households, than through the traditional voucher program alone. These households are included in the count of households served each month.

Target populations for Program Based Assistance are families for whom:

- Success on the Section 8 Housing Choice Voucher would be unlikely;
- The delay in accessing rent assistance due to the Section 8 waiting list would most likely have devastating results (recidivism, relapse, death, homelessness, etc.); or
- The need for rental subsidy is short term while the client is receiving the support needed to achieve self-sufficiency.

Identified partners work with the PHA to set up program policies that are specific to the target population they are serving. The PHA ensures the policies are clear, equitably managed, and in compliance with Fair Housing laws. However, all programs have common elements.

Common Program Elements

Uses of Funds: Rental Assistance funds may be used for rent assistance, rent arrears with a current landlord, move-in fees and deposits, utility assistance and arrears, motel vouchers if housing is identified but not immediately available, and documented debt to a past landlord (other than a housing authority).

Eligibility: Eligibility for Program Based Assistance will be as low barrier as possible in order to provide housing access for hard-to-serve households. The only limitations on eligibility will be:

- The household must include at least one person who is a U.S. citizen, U.S. national, or noncitizen with eligible immigration status;
- The household may not include any member who is subject to lifetime registration requirement under a state sex offender registration program;
- The household may not include any member who has been convicted of production/manufacture of methamphetamine on premises of federally assisted housing;
- No one in the household may owe the PHA money;
- Annual gross income cannot exceed 50% of area median income at time of program entry

Subsidy Determination Method: Each partner is required to write clear policies and procedures for how subsidy amount and duration will be determined; and these policies must be applied to all participants in that partner's program.

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Service Requirements: The PHA is making these funds available to target populations in partnership with one or more partners who are experts in providing the supports families need to remain stably housed and, where appropriate, move towards self-sufficiency. Therefore, partner agencies are required to make services available to all families accessing Program Based Assistance. Partner agencies will also have the discretion to discontinue rental assistance to households who violate their program policies or fail to engage in services after repeated attempts at engagement.

Alternative Inspection Requirements: The PHA has an option to allow alternative inspection requirements for units assisted with rent assistance that the PHA has contracted to community partners. Rather than requiring full Housing Quality Standards (HQS) inspections, the PHA will require that these units meet the habitability standards, unit inspection requirements, and lead-based paint visual assessment requirements currently required by HUD's Homelessness Prevention and Rapid Re-housing Program (HPRP). These alternative inspection requirements will allow the staff of the PHA's jurisdictional and community partners to conduct inspections themselves rather than rely on the PHA's inspections staff. Using the HPRP inspection requirements ensures housing standards while increasing efficiency and cost effectiveness.

Current Program Based Initiatives

Short Term Rent Assistance (STRA)

STRA is a countywide program that provides limited housing assistance (up to 24 months) to households in Multnomah County that are experiencing homelessness or at risk of homelessness. The PHA administers the program on behalf of Multnomah County, the City of Portland, the City of Gresham, and the PHA, each of which provides funding for the program. Each of these entities previously had its own short-term housing program, and the creation of STRA in 2006 consolidated the community's resources to improve efficiency and results.

STRA is designed to respond quickly when homelessness threatens an individual or family. It does this in three ways:

- Safety off the streets: providing emergency hotel/motel vouchers for temporary shelter;
- Eviction prevention assistance: helping households in danger of eviction maintain the housing they have;
- Housing placement assistance: helping households obtain permanent housing.

Services are provided through 19 public and non-profit agencies that are selected based on demonstrated expertise and results. For the 2011-2012 program year, the STRA program served approximately 2400 families with nearly $3.5 million in funds.

Alder Elementary School Program

Alder Elementary school is in the Reynolds School District on the east edge of Portland, and has one of the highest poverty rates in the state: 94 percent of students are eligible for free or reduced lunch and 20 percent of students are homeless. Like many high poverty schools, it has historically faced high student mobility rates. In 2010, "I Have a Dream" Foundation- Oregon established Alder Elementary as the first "Dreamer School" in the nation, setting strong goals around academic achievement:

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- 80 percent of Alder students will finish a post-secondary degree or certificate (current rate is less than 10 percent)
- 50 percent of Alder students will "exceed" and 90 percent will "meet" expectations on 3rd, 5th, and 8th grade statewide benchmark tests.

Beginning with the 2012-13 school year, the PHA has made a multi-year commitment of Public Housing units and flexible rent and client assistance resources to support reduced mobility and improved family stability for families at Alder Elementary School. The PHA's commitment is leveraging an additional $100,000 per year from Multnomah County and the City of Portland to support rent assistance delivery and supportive services for assisted households. All programming is being managed by Human Solutions.

New Doors – Oxford House-Model Program for Former Foster Youth

New Doors is an initiative focused on helping former foster youth achieve housing and income stability, managed by a partnership between the PHA, New Avenues for Youth, Multnomah County, the City of Portland, the Recovery Association Project (which manages Oxford Houses in the Portland Metro area), and Portland Community College (PCC).

The program provides service-enriched rental assistance to former or transitioning foster care youth, aged 18-24, who are homeless or at risk of homelessness. Housing is provided in a democratically-run house model (like an Oxford House), which integrates positive peer culture and provides youth opportunities to build social capital and healthy natural relationships.

Youth must be employed or in post-secondary education to participate, and New Avenues for Youth identifies participants and provides or coordinates ongoing case management supports for each youth. PCC may refer in current students who fit the target population, and has also committed to providing Future Connect scholarships and supports services to eligible house residents who enroll at PCC.

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19-I.C. SECURITY DEPOSIT ASSISTANCE

The PHA uses single-fund flexibility to offer security deposit assistance to two populations in our community: participants leasing up with Veterans Affairs Supportive Housing (VASH) vouchers, and foster youth leasing up with Family Unification Program (FUP) vouchers. For homeless veterans, a lack of funds for security deposits is a serious barrier to successful use of VASH vouchers. Similarly, youth aging out of the foster care system often do not have the resources to pay for security deposits when trying to utilize FUP vouchers. Security deposit assistance is a key support to finding housing for veterans and youth leasing up in units requiring deposits. The PHA's funds are to be funds of last resort for deposits, to be used only when the service agencies working with these populations are not able to arrange for deposit assistance.

19-I.D. INTER-JURISDICTIONAL PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE

In collaboration with other MTW-authorized housing authorities and the local domestic violence service system, the PHA will implement an inter-jurisdictional transfer program to assist participants who are victims of domestic violence. The program will ensure continued access to stable and safe housing when it is deemed necessary that the household move to another jurisdiction. The local domestic violence service system will assess clients for eligibility, refer residents to the program and provide advocacy and assistance with relocation. Additionally, clients will be assigned to a local domestic violence agency in the new jurisdiction for support after their transfer. The PHA will allocate up to $2,000 per household for up to five households each year to provide relocation assistance to help participants transfer into the jurisdiction of one of the MTW partner agencies. In addition, the PHA intends to absorb the vouchers of up to five families referred by partnering MTW agencies.

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Temporary Policy Supplement

EMERGENCY HOUSING VOUCHERS (EHVs)

INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated $5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into six parts, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

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PART I: FUNDING

TPS-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

Housing Assistance Payments (HAP) Funding

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Administrative Fee and Funding

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - $400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).

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- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - $100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Placement fees:
    - $500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - $250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
    - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees,** which are calculated in the same way as the standard HCV program:
  - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fee,** which is a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
  - The amount allocated is $3,500 for each EHV allocated.

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TPS-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

PHA Policy

The eligible uses for service fees include:

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. The PHA may choose to assist the family with some or all these expenses.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The PHA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the PHA will require documentation that the family paid the security deposit.

Utility arrears. Some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may provide the family with assistance to help address these utility arrears to facilitate leasing.

Owner recruitment and outreach for EHVs. The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHVs. In addition to traditional owner recruitment and outreach, activities may include expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

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Owner incentive and/or retention payments. The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Regardless of the frequency that the PHA chooses to make such payments, owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses (including move-in fees and deposits). The PHA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The PHA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the PHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

Tenant-readiness services. The PHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

Essential household items. The PHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

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PART II: PARTNERING AGENCIES

TPS-II.A. CONTINUUM OF CARE (CoC)

PHAs that accept an allocation of EHVs are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHVs.

PHA Policy

The PHA has entered into an MOU with A Home For Everyone Coordinating Board (AHFE), also known as OR-501 Portland/Gresham/Multnomah County Continuum of Care. See Exhibit TPS-1 for a copy of the MOU. The City of Portland / Multnomah County Joint Office of Homeless Services is also party to the MOU as the lead agency for the Continuum of Care.

TPS-II.B. OTHER PARTNERING ORGANIZATIONS

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

PHA Policy

No other partners are included in the MOU between the PHA, the CoC, and the CoC lead agency. See Exhibit TPS-1 for a copy of the MOU.

TPS-II.C. REFERRALS

CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHVs. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

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PHA Policy

As the lead agency of the Continuum of Care, the City of Portland / Multnomah County Joint Office of Homeless Services (JOHS) will make referrals of eligible families to the PHA. JOHS will certify that the EHV applicants they refer to the PHA meet at least one of the four EHV eligibility criteria. The PHA will maintain a copy of the referral and certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork.

The JOHS will make referrals to the PHA on a schedule agreed upon with PHA. Referrals will be accompanied with a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

Offers of Assistance with CoC Referral

The PHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP).

The PHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

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PART III: WAITING LIST MANAGEMENT

TPS-III. A. HCV WAITING LIST

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

PHA Policy

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHVs are limited
- Clearly state that the availability of these EHVs is managed through a direct referral process
- Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

TPS-III.B. EHV WAITING LIST

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHVs available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

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TPS-III.C. PREFERENCES

HCV Waiting List Preferences

If local preferences are established by the PHA for HCV, they do not apply to EHVs. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHVs in accordance with Notice PIH 2021-15.

PHA Policy

The PHA does not have a homeless preference for the HCV waiting list.

The PHA does not have a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the HCV waiting list.

The PHA will make an EHV available in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP).

EHV Waiting List Preferences

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHVs. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

PHA Policy

No local preferences have been established for the EHV waiting list.

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PART IV: FAMILY ELIGIBILITY

TPS-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

TPS-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

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TPS-IV.C. PHA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

> PHA Policy
>
> While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

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Permissive Denials

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHA Policy

The PHA will not adopt any permissive prohibitions for the EHV program.

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TPS-IV.D. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

PHA Policy

The PHA may consider self-certification the highest form of income verification at admission.

Applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. Original documents are preferred. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

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

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, 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.

If the PHA later determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

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Recently Conducted Income Determinations

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

PHA Policy

The PHA will not accept income calculations and verifications from third-party providers.

On a case-by case basis, the PHA may accept income calculations and verifications from an examination that the PHA conducted on behalf of the family for another subsidized housing program, provided they meet the criteria outlined above. Tracking and supervisory approval will be required.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

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TPS-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

TPS-IV.F. AGE AND DISABILITY VERIFICATION

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

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TPS-IV.G. INCOME TARGETING

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

The PHA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

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PART V: HOUSING SEARCH AND LEASING

TPS-V.A. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV 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

The initial EHV voucher term will be 120 calendar days.

For families moving to the PHA's jurisdiction under portability, the voucher expiration date will be 30 calendar days from the expiration date of the initial PHA's voucher.

The family must submit a Request for Tenancy Approval on or before the voucher expiration date, including any extensions granted by the PHA.

TPS-V.B. HOUSING SEARCH ASSISTANCE

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

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PHA Policy

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

Home Forward and the City of Portland / Multnomah County Joint Office of Homeless Services (JOHS), the CoC lead agency for Multnomah County, will ensure application, housing search and flexible financial assistance is made available to all families and individuals referred for EHV. Services and financial assistance will generally be provided by partnering CoC service providers connected to referred families and individuals through the CoC's Coordinated Entry Systems. Housing services and financial assistance may be funded with a combination of "Service Fee" funding provided by HUD aligned with EHV awards, local General Funds, and Metro Supportive Housing Services funds.

Partnering CoC service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.

Partnering CoC service providers will support individuals and families in completing steps necessary to complete EHV application including supporting attendance at required EHV briefing orientations.

Partnering CoC service providers will make available housing search assistance that may include:

- Assistance identifying eligible units, including physically accessible units as needed as well as units in low-poverty neighborhoods;
- Outreach to owners of potentially eligible units;
- Provide transportation assistance and direction to potential units;
- Assist families and individuals with rental applications, rental agreements and other paperwork;
- Advocate directly, as needed, with landlords on behalf of the families and individuals; and
- Otherwise help expedite the EHV leasing process for families and individuals.

Partnering CoC service providers will support EHV families and individuals in accessing Home Forward and JOHS funded financial assistance to support lease-up. Assistance may include:

- Application fees;
- Security deposits;
- Utility deposits and utility arrears if it is necessary for EHV lease-up;
- Rent arrears and housing related debt if it is a barrier to EHV lease-up
- Moving expenses for initial EHV lease-up; and
- Essential household items.

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Additionally, the PHA will:

Conduct owner outreach in accordance with policies in Chapter 13

Provide directions to potential units as part of the EHV briefing packet

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

TPS-V.C. HQS PRE-INSPECTIONS

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

PHA Policy

The PHA will not conduct pre-inspections of available units. The PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

TPS-V.D. OWNER INCENTIVE PAYMENTS

The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family.

PHA Policy

The PHA established a landlord incentive program that will offer a single $1200 incentive payment to owners that lease a unit to an emergency housing voucher (EHV) holder when the family initially leases a unit with the EHV assistance for the first time.

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TPS-V.E. INITIAL LEASE TERM

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

TPS-V.F. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHVs. Exceptions are addressed below.

Nonresident Applicants

Under EHV, 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, regardless of PHA policy in Section 10-II.B.

Billing and Absorption

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHVs under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHVs under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

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Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

PHA Policy

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with policies in Chapter 2.

Coordination of Services

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

PHA Policy

For EHV families who are exercising portability, when the PHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

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Services Fee

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or $1,750, unless the initial PHA and receiving PHA mutually agree to change the $1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHVs, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHVs, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

Placement Fee/Issuance Reporting Fee

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

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TPS-V.G. PAYMENT STANDARDS

Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHVs. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHVs, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
  - The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

    <u>PHA Policy</u>

    The PHA will establish separate higher payment standards for EHVs. The EHV payment standards will be set at 120 percent of the FMR.

    At no time will the EHV payment standards fall below the HCV payment standards. If the PHA increases the HCV payment standard, the PHA will also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard.

Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

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Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

PHA Policy

The PHA will not establish an alternative policy for increases in payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

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TPS-V.H. TERMINATION OF VOUCHERS

After September 30, 2023, a PHA may not reissue EHVs when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHVs under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHVs that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHVs to cease leasing any unleased EHVs if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

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PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHVs are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHVs and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHVs in accordance with the HCV program requirements at 24 CFR 982.158.

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MEMORANDUM OF UNDERSTANDING — EMERGENCY HOUSING VOUCHER PROGRAM

This Memorandum of Understanding (MOU) has been created and entered into on July 30th, 2021 by and between the following parties in relation to the Department of Housing and Urban Development Emergency Housing Voucher Program:

Home Forward
(Public Housing Authority)
135 SW Ash Street
Portland, Oregon 97204

City of Portland / Multnomah County Joint Office of Homeless Services
(Continuum of Care Lead Agency/Collaborative Applicant)
421 SW Oak Street, Suite 105
Portland, OR 97204

A Home For Everyone Coordinating Board
(OR-501 Portland/Gresham/Multnomah County Continuum of Care)
421 SW Oak Street, Suite 105
Portland, OR 97204

This MOU establishes a joint vision for providing Emergency Housing Vouchers to eligible households in Multnomah County's Continuum of Care. The parties acknowledge and agree that this MOU does not create any legally binding or enforceable undertakings. Rather, the MOU expresses the parties' mutual understanding regarding the subject matter described herein.

I. INTRODUCTION AND GOALS

For the purposes of this MOU the following are the participating organizations:

Public Housing Authority (PHA): Home Forward

Continuum of Care (CoC): A Home For Everyone Coordinating Board (AHFE), also known as OR-501 Portland/Gresham/Multnomah County Continuum of Care".

Continuum of Care Lead Agency / Collaborative Applicant: City of Portland / Multnomah County Joint Office of Homeless Services (also referred to as JOHS)

Home Forward, A Home for Everyone Coordinating Board and City of Portland / Multnomah County Joint Office of Homeless Services' commitment to administer the Emergency Housing Voucher program

In a joint effort, Home Forward (the Public Housing Authority for Multnomah County), A Home For Everyone Coordinating Board, (OR-501 Portland/Gresham/Multnomah County Continuum of Care) and the City of Portland / Multnomah County Joint Office of Homeless Services jointly committed to, prepared and agreed upon the stated responsibilities within this Memorandum of Understanding (MOU) for implementing the Emergency Housing Voucher Program (EHV) and commit to administering the Emergency Housing Vouchers in accordance with all program requirements.

Staff positions who will serve as the lead EHV liaisons
Home Forward, the City of Portland / Multnomah County Joint Office of Homeless Services (JOHS) will each designate a staff position to serve as the lead FUP Liaison. These FUP liaisons will be responsible for the coordination of referrals, lease-up and services for EHV assisted households

Name and title of PHA staff position – Home Forward staff position serving as EHV liaison:
Ian Slingerland, Director of Homeless Initiatives and Supportive Housing

Name and title of CoC staff position – City of Portland / Multnomah County Joint Office of Homeless Services staff position serving as EHV liaison:
Bill Boyd, Senior Program Specialist

Goals and Standards of Success in Administering the Emergency Housing Voucher Program
Emergency Housing Voucher (EHV) Utilization

1. Emergency Housing Voucher Utilization:
    a. Achieve a minimum of 90% utilization within 12-months of award; and
    b. Maintain a minimum of 90% utilization of ongoing Emergency Housing Voucher participation.

2. Emergency Housing Voucher Success Metrics:
    a. Lease-up speed is equal to or better than non-EHV HCV families;
    b. Lease-up success is equal to or better than non-EHV HCV families; and
    c. Voucher retention is equal to or better than non-EHV HCV families

Commitment to Racial Equity[1]
Racism is a primary driver of homelessness. Through historical policies such as slavery, the Indian Removal Act of 1830, redlining, and Federal Housing Administration (FHA) loan discrimination, Communities of Color have been systematically excluded from land and property ownership. This legacy shapes the current configuration of housing and homelessness within our community. Additionally, systemic racism is infused within all social systems; housing, criminal justice, education, healthcare, and social services, which shape opportunities for individuals and communities. The confluence of these systems generates an ongoing channel to

[1] This Commitment to Equity was previously adopted by Multnomah County and A Home for Everyone as part of the Multnomah County Local Implementation Plan for the Metro Supportive Housing Services Program which can be found here: http://ahomeforeveryone.net/supportive-housing-services-program

homelessness that disproportionately impacts Communities of Color, and makes it significantly more challenging for People of Color to escape homelessness. People of Color are also subjected to the ongoing indignities of interpersonal racism — both implicit and explicit — as they navigate services and community. These different dynamics create a constellation of factors that must be eliminated.

Racial Disparities in the Experience of Homelessness

Disproportionate rates of homelessness among Communities of Color can be traced to centuries of policies that prevented People of Color from accessing resources. Policies such as redlining, where communities of color were disproportionately denied access to FHA loans, and eminent domain, where communities of color were disproportionately displaced, ultimately prevented many BIPOC individuals from obtaining home ownership, which is a major conduit to housing stability and wealth. Further, policies that restrict the level and duration of services and financial assistance for immigrants and refugees force many in these communities to take any housing or employment resource immediately available, foreclosing future opportunities.

The current manifestation of systemic racism within social systems continues to create barriers to housing access for Communities of Color, immigrants and refugees. Two examples of this dynamic can be seen in both criminal justice and housing systems. Through the over-policing of Communities of Color and racism in policing, BIPOC individuals are disproportionately arrested and convicted of crimes. In housing, BIPOC individuals are also disproportionately evicted. Receiving a criminal conviction or a formal eviction can prevent individuals from accessing housing and contributes to the likelihood that a person will become and remain unhoused.

We see disparities for Communities of Color in accessing the homeless services system. Fiscal Year (FY) 19/20 data from the Homeless Management Information System (HMIS) show racial disparities among those served in homeless system programs. Communities of Color identified below, with the exception of the Asian community, were overrepresented in these data, which is consistent with what we see in other data, like the Point-in-Time Count, where Communities of Color are similarly overrepresented. This is especially true for Black/African American and American Indian/Alaska Native communities.

Race Equity and COVID-19

Disparities resulting from systemic and institutionalized racism existed well before the pandemic and are have been magnified through the COVID-19 pandemic with disproportionate negative impact on the lives and health of people Communities of Color. Communities of Color have lower incomes overall and are more likely to be working in service industry occupations. People of Color are more likely to be renters, and Renters of Color experience higher shelter burdens than White renters. As a result, Communities of Color are disproportionally at risk of eviction and homelessness resulting form the economic and health impacts of the COVID-19 pandemic.

Emergency Housing Voucher Access and Outcomes
To drive down race disparities in the experience of homelessness and COVID-related housing instability, Communities of Color must be overrepresented in access to and success in the Emergency Housing Voucher Program

1. Communities of Color access EHV at rates as high or higher than would be expected based on the make of EHV eligible households as identified in:
    a. The demographics of individuals and families in Multnomah County's homeless services system;
    b. The demographics of individuals and families assessed through Multnomah County's Coordinated Entry Systems;
    c. The demographics of individuals and families identified in Multnomah County's Point in Time Count; and
    d. The demographics of low-income renters in Multnomah County

2. Success in Emergency Housing Voucher program
    a. EHV retention rates for individuals and families of color, at minimum, mirror EHV retention for white individuals and families.

II. PROGRAM EVALUATION

All parties to this MOU agree to cooperate with any program evaluation efforts undertaken by HUD, or a HUD-approved contractor, including compliance with HUD evaluation protocols and data sharing requests.

III. POPULATIONS ELIGIBLE FOR EMERGENCY HOUSING VOUCHER ASSISTANCE TO BE REFERRED BY CONTINUUM OF CARE

In order to be eligible for an EHV, an individual or family must meet one of four eligibility categories:

1. Experiencing homelessness;
2. At risk of homelessness;
3. Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
4. Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Full definitions for each of these categories is included as Attachment A to this MOU.

Home Forward will issue Emergency Housing Vouchers to eligible individuals and families as the result of either:

1. The direct referral process from the Continuum of Care's Coordinated Entry Systems managed by JOHS; or
2. A situation where Home Forward makes an EHV available in order to facilitate an emergency transfer in accordance with the Violence Against Women Act (VAWA) as outlined in the Home Forward's Emergency Transfer Plan.

Populations to be referred by JOHS

JOHS may make referrals for EHVs from the Continuum's Coordinated Entry Systems of individuals and families from all four eligible population categories.

Experiencing Homelessness

JOHS will make referrals of families and individuals experiencing homelessness from the Continuum's Coordinated Entry Systems. Referrals will prioritize families and individuals experiencing homelessness who will benefit from permanent housing assistance but who are ineligible for, due to nature of homelessness or disability status, or unlikely to, due to assessment score, receive Continuum of Care-funded Permanent Supportive Housing assistance.

Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking

JOHS will make referrals of families and individuals fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking from the Continuum's DV Coordinated Entry System.

Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

JOHS will make referrals of families and individuals who experienced recent homelessness from the Continuum's Coordinated Entry Systems. Referrals will prioritize families and individuals who experienced recent homelessness and are currently being assisted with term-limited Rapid-Housing assistance and for who the loss of housing assistance will likely result in homelessness or housing instability.

At Risk of Homelessness
JOHS may refer families and individuals at risk of homelessness. Referrals will prioritize families and individuals who are receiving, or recently received, COVID Rent Relief to prevent eviction and who without additional assistance are at risk of homelessness.

Populations to be served with EHV not referred by JOHS
Home Forward will make EHV available to eligible families and individuals in order to facilitate emergency transfers in accordance with the Violence Against Women Act (VAWA) as outlined in the Home Forward's Emergency Transfer Plan.

IV. HOUSING SERVICES, INCLUDING FINANCIAL ASSISTANCE, THAT WILL BE PROVIDED TO ASSIST EHV APPLICANTS AND PARTICIPANTS WITH LEASE-UP

Home Forward and JOHS will ensure application, housing search and flexible financial assistance is made available to all families and individuals referred for EHV. Services and financial assistance will generally be provided by partnering CoC service providers connected to referred families and individuals through the CoC's Coordinated Entry Systems. Housing services and financial assistance may be funded with a combination of "Service Fee" funding provided by HUD aligned with EHV awards, local General Funds, and Metro Supportive Housing Services funds.

1. Partnering CoC service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.
2. Partnering CoC service providers will support individuals and families in completing steps necessary to complete EHV application including supporting attendance at required EHV briefing orientations.
3. Partnering CoC service providers will make available housing search assistance that may include:
    a. Assistance identifying eligible units, including physically accessible units as needed as well as units in low-poverty neighborhoods;
    b. Outreach to owners of potentially eligible units;
    c. Provide transportation assistance and direction to potential units;
    d. Assist families and individuals with rental applications, rental agreements and other paperwork;

e. Advocate directly, as needed, with landlords on behalf of the families and individuals; and
f. Otherwise help expedite the EHV leasing process for families and individuals.

4. Partnering CoC service providers will support EHV families and individuals in accessing Home Forward and JOHS funded financial assistance to support lease-up. Assistance may include:
   a. Application fees;
   b. Security deposits;
   c. Utility deposits and utility arrears if it is necessary for EHV lease-up;
   d. Rent arrears and housing related debt if it is a barrier to EHV lease-up
   e. Moving expenses for initial EHV lease-up; and
   f. Essential household items.

5. Home Forward may provide incentive payments to landlords for initial EHV lease-ups to encourage participation.

V. HOME FORWARD ROLES AND RESPONSIBILITIES

1. Coordinate and consult with the JOHS in developing the details of the services and assistance to be offered funded with EHV services fee and JOHS resources;

2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry Systems;

3. Make EHV available to eligible families and individuals in order to facilitate emergency transfers in accordance with the Violence Against Women Act (VAWA) as outlined in the Home Forward's Emergency Transfer Plan.

4. Work with JOHS to develop shared referral schedule and commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner;

5. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner;

6. Through its standard process, Home Forward will, if needed, amend its administrative plan in accordance with applicable program regulations and requirements;

7. Through its standard process, Home Forward will amend its administrative plan to implement limited screening criteria and increased payment standards for the EHV program;

8. Through its standard process, Home Forward's Rent Assistance department will administer the vouchers in accordance with applicable program regulations and requirements;

9. Using its education team, Home Forward will make training available for JOHS and CoC partner agency staff on the Housing Choice Voucher program and procedures and the unique attributes of the EHV program;

10. Work with JOHS to develop necessary data and tracking metrics for tracking and improvement purposes;

11. Commit staff to participate in case conferencing through initial EHV lease-up phase;

12. Designate a staff to serve as the lead EHV liaison; and

13. Comply with the provisions of this MOU.

VI. JOINT OFFICE OF HOMELESS SERVICES ROLES AND RESPONSIBILITIES ON BEHALF OF THE CONTINUUM OF CARE

1. Coordinate and consult with Home Forward in developing the details of the services and assistance to be offered funded with EHV services fee and JOHS resources;

2. Work with Home Forward to develop shared referral schedule and direct referrals to Home Forward for eligible individuals and families through the CoC Coordinated Entry Systems;

3. Arrange for EHV application support and housing search services with Continuum of Care partner agencies for each EHV referral;

4. Ensure availability, as needed, of retention and supportive services through funded CoC partner agencies for EHV referrals;

5. Work with Home Forward to develop necessary data and tracking metrics for tracking and improvement purposes;

6. Commit staff to participate in case conferencing through initial EHV lease-up phase;

7. Designate a staff to serve as the lead EHV liaison; and

8. Comply with the provisions of this MOU.

Signed By:

July 30, 2021

Michael Buonocore, Executive Director, Home Forward Date

29 July 2021

Stacy Borke, TPI / Mercedes Elizalde, CCC, CoC Board Co-Chair — Date

29 July 2021

Marc Jolin, Director, Joint Office of Homeless Services, CoC Collaborative Applicant Authorized Representative — Date

Attachment A: Households Eligible for Emergency Housing Vouchers

Individuals and families who are homeless

The meaning of "homeless" is as such term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

Homeless means:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
    ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
    iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

2. An individual or family who will imminently lose their primary nighttime residence, provided that:
    i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
    ii. No subsequent residence has been identified; and
    iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

3. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
    i. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

Individuals or families who are at-risk of homelessness

The meaning of "at-risk of homelessness" is as such term is defined in section 401(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(1)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

At risk of homelessness.

1. An individual or family who:
   i. Has an annual income below 30 percent of median family income for the area, as determined by HUD;
   ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition above; and
   iii. Meets one of the following conditions:
      a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
      b. Is living in the home of another because of economic hardship;
      c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
      d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
      e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger

housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

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

g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

2. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

3. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Individuals or families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking

This category is composed of any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer.

Domestic violence includes felony or misdemeanor crimes of violence committed by:

1. a current or former spouse or intimate partner of the victim (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),

2. a person with whom the victim shares a child in common,

3. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,

4. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or

5. 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.

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:
    a. The length of the relationship;
    b. The type of relationship; and
    c. 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.

Human trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102). These are defined as:
Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (and)

Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Individuals or families who are recently homeless

This category is composed of individuals and families determined by the CoC or its designee to meet the following definition:

Recently homeless is defined as individuals and families who have previously been classified by a member agency of the CoC as homeless but are not currently homeless as a result of

homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the CoC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of housing instability. Examples of households that may be defined as recently homeless by the CoC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing.

Individuals and families classified as recently homeless must be referred by the CoC or its designee.

Chapter 20

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)
- Stability Vouchers

PHA Policy

The PHA will administer the following types of special purpose vouchers:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Stability Vouchers

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into six 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

Part VI: Stability 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.

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PART I: FAMILY UNIFICATION PROGRAM (FUP)

20-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]

Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

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Assigning Vouchers [FUP FAQs]

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

PHA Policy

The PHA has designated 75% of FUP vouchers for families and 25% for youth.

20-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 20-I.C. and 20-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

PHA Policy

The PHA has entered into an MOU with the following partnering organizations: Oregon Department of Human Services Child Welfare Division, City of Portland / Multnomah County Joint Office of Homeless Services, Multnomah County Department of County Human Services, Youth and Family Services Division.

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Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

PHA Policy

Oregon Department of Human Services Child Welfare Division and/or member organizations of the Multnomah County Homeless Youth Continuum will provide supportive services for all FUP youth for a period of 36 months as indicated in the FUP MOU.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

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20-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

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- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part II of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

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20-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].

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20-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance (Fostering Stable Housing Opportunities)

Per the Fostering Stable Housing Opportunities amendments enacted as part of the Consolidated Appropriations Act, 2021, FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for the length of their FSS contract as part of the Family Unification Program and Family Self Sufficiency Demonstration. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

  <u>PHA Policy</u>

  The PHA defines *incapacitated person* as a person whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.

  The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

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The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

  PHA Policy

  The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

  PHA Policy

  The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

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Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- For not less than 9 months of the 12-month period preceding each extension, the youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

  PHA Policy

  The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- For not less than 9 months of the 12-month period preceding each extension, the youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

  PHA Policy

  Youth must be enrolled for a minimum of six credit hours. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

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- For not less than 9 months of the 12-month period preceding each extension, the youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual's education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- For not less than 9 months of the 12-month period preceding each extension, the youth was employed.

PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 30 hours per month. The PHA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at least 60-days prior to the end of the youth's 24th month of assistance of the education, workforce development, and employment requirements described above.

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FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

PHA Policy

The PHA is participating in the Family Unification Program and Family Self Sufficiency Demonstration. FUP youth may be offered an FSS slot between the 48-month mark and the 60-month mark.

Family Unification Program and Family Self Sufficiency Demonstration [Notice PIH 2016-01]

The PHA participates in a demonstration testing the effectiveness of combining housing choice vouchers for FUP-eligible youth with assistance under the Family Self Sufficiency (FSS) program. This demonstration extends the statutory time limit on voucher assistance to match the length of the FSS contract.

Program participants with a FUP youth voucher who agree to sign an FSS Contract of Participation will maintain their housing assistance for a period not exceeding the length of the FSS Contract of Participation. In most cases, the limit will be no more than five years; however,

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if the FSS Contract of Participation is extended, in accordance with 24 CFR 984.303(d), the FUP youth voucher can be extended for the entire length of the FSS Contract of Participation.

Families cannot be required to participate in the FSS program as condition of receipt of assistance under the HCV program, including receipt of a FUP voucher. However, only FUP youth that sign an FSS Contract of Participation may benefit from the extension of the time limit for voucher assistance.

PHAs must review the availability of this demonstration with all FUP youth during the family briefing. Current FUP youth must be given opportunity to participate.

PHA Policy

The PHA will notify eligible youth about the FUP and FSS Demonstration in partnership with the local DHS office and Homeless Youth Continuum of Care during the program specialized orientations and family briefings.

The PHA, in partnership with the local DHS office and Homeless Youth Continuum of Care, will conduct one-time in-person orientation to current FUP youth participants to notify them of this opportunity. The notice will provide information on how this demonstration works, including an explanation that while the families are not required to participate in the FSS program as condition of receipt of FUP voucher assistance, only FUP youth that sign an FSS Contract of Participation may benefit from the extension of the time limit for voucher assistance. The time frame to enroll will be 60 days from PHA notification or before the conclusion of the statutory time limit of the FUP youth voucher, whichever is earlier.

If a FUP youth participating in this demonstration fails to comply with the terms and conditions of the FSS Contract of Participation without good cause and is terminated from the FSS program, the FUP youth is no longer considered a participant in this demonstration. With FSS termination, the FUP youth is subject to the statutory limit of the FUP youth voucher, beginning from the time the first HAP contract is signed. If FUP youth has been assisted for more than 36 months, the PHA may terminate assistance to the FUP youth household. FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance) if they meet one of the statutory exceptions listed in Section 20.I.E. The PHA may not terminate voucher assistance for FUP youth because of failure to comply with an FSS Contract of Participation prior to the end of the first 36 months of assistance.

Prior to terminations, PHAs offer an informal hearing to a FUP youth wishing to appeal a PHA decision to terminate. Policies specifying such hearing procedures are included in the PHA's FSS Action Plan.

The requirements of compliance and consequences for not complying with the terms and conditions of the FSS Contract of Participation are reviewed with the FUP youth at the time the FSS Contract of Participation is signed.

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No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to 36-months and 48-months of Assistance

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to the end of their 36th and 48th-months of assistance. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

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The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

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Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

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20-I.F. REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement and Selection

PHA policies for waiting list placement and selection are included in Chapter 4.

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20-I.G. PHA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

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20.I.H. LEASE UP [FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

  PHA Policy

  Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually or in groups with other FUP youth. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

  For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

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20-I.I. TERMINATION OF ASSISTANCE

General Requirements

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

> PHA Policy
>
> The PHA will not transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

FUP Youth Vouchers

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

> PHA Policy
>
> As described in Chapter 4, the PHA has a limited local preference for assisted families, including individual youth, that are currently served in the Family Unification Program-Youth (FUP), Foster Youth to Independence (FYI), or Moving to Work-funded FUP rental assistance extension programs administered by the PHA, if the following circumstances apply:

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FUP Youth/FYI assisted family includes a head of household who is a person with disabilities, as defined in 24 CFR 5.403, and whose voucher is expiring due to the 36-month statutory time limit for FUP Youth and FYI programs; or

FUP Youth/FYI assisted family's voucher assistance is ending after family has used all available Fostering Stable Housing Opportunities extensions or extensions available for participants of the Family Unification Program Family Self-Sufficiency Demonstration; or

Assisted family's Moving to Work-funded FUP rental assistance extension program assistance is expiring.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

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20-I.J. FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

20-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

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PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

20-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 though 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.

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20-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 Oregon Department of Human Services Child Welfare Division.

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 City of Portland / Multnomah County Joint Office of Homeless Services, and the member organizations of the Multnomah County Homeless Youth Continuum.

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20-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.
    - 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.

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20-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.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

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20-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.

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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.

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.

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20-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.

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.

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20-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 or in groups with other FYI youth. 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.

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.

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20-II.H. MAXIM]UM 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 (Fostering Stable Housing Opportunities)

Per the Fostering Stable Housing Opportunities amendments enacted as part of the Consolidated Appropriations Act, 2021, 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.

  <u>PHA Policy</u>

  The PHA defines *incapacitated person* as a person whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur. 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.

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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.

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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:

- For not less than 9 months of the 12-month period preceding each extension, 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.

- For not less than 9 months of the 12-month period preceding each extension, 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 a minimum of six credit hours. 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.

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- For not less than 9 months of the 12-month period preceding each extension, 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).
- For not less than 9 months of the 12-month period preceding each extension, 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 30 hours per month. 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 least 60-days prior to the end of the youth's 24th month of assistance 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:

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- 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

After 36-month and 48-month's of housing assistance, 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 36-months and 48-months of Assistance

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-

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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. 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 the end of their 36th and 48th months of assistance. 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.

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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.

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.

20-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
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> As described in Chapter 4, the PHA has a limited local preference for assisted families, including individual youth, that are currently served in the Family Unification Program-Youth (FUP), Foster Youth to Independence (FYI), or Moving to Work-funded FUP rental assistance extension programs administered by the PHA, if the following circumstances apply:

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FUP Youth/FYI assisted family includes a head of household who is a person with disabilities, as defined in 24 CFR 5.403, and whose voucher is expiring due to the 36-month statutory time limit for FUP Youth and FYI programs; or

FUP Youth/FYI assisted family's voucher assistance is ending after family has used all available Fostering Stable Housing Opportunities extensions or extensions available for participants of the Family Unification Program Family Self-Sufficiency Demonstration; or

Assisted family's Moving to Work-funded FUP rental assistance extension program assistance is expiring.

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20-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.

20-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.

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PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

20-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.

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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.

20-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 for referral and application.

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20-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.

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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
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> 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.

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20-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 11-II.C. 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 Chapter 3 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.

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20-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.

PHA Policy

The PHA will establish separate higher payment standards for HUD-VASH. The HUD-VASH payment standards will be set at 120 percent of FMR.

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.

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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

The PHA will not pre-inspect units.

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20-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.

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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. 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.

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20-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.

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20-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.

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.

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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-VII.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.

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PART IV: MAINSTREAM VOUCHER PROGRAM

20-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.

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20-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.

20-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 the City of Portland / Multnomah County Joint Office of Homeless Services.

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20-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 following preferences, as described in Chapter 4:

Families with a non-elderly (age 18 - 61) person with disabilities, as defined in 24 CFR 5.403, who is transitioning out of institutional or other segregated settings. The PHA will limit the number of vouchers set aside for this preference to 99. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 99 vouchers. This preference will expire December 1, 2022.

Families with a non-elderly (age 18 - 61) person with disabilities, as defined in 24 CFR 5.403, who is experiencing homelessness and was referred to the PHA from Multnomah County's Coordinated Access system managed by the City of Portland / Multnomah County Joint Office of Homeless Services. The PHA will limit the number of vouchers set aside for this preference to 130 until December 1, 2022. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 130 vouchers until December 1, 2022. The PHA will limit the number of vouchers set aside for this preference to 229 beginning December 2, 2022. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 229 vouchers beginning December 2, 2022.

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20-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.

20-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.

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PART V: NON-ELDERLY DISABLED (NED) VOUCHERS

20-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.

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- **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.

20-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).

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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.

20-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.

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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.

20-V.D. LEASE UP [Notice PIH 2013-19]

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.

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20-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.

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PART VI: STABILITY VOUCHERS

20-VI.A. PROGRAM OVERVIEW [Notice PIH 2022-24: Stability Voucher Program]

The Stability Voucher initiative makes Housing Choice Voucher (HCV) assistance available to Public Housing Agencies (PHAs) in partnership with local Continuum's of Care and/or Victim Service Providers to assist households experiencing or at risk of homelessness, those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, human trafficking, and veterans and families that include a veteran family member that meets one of the proceeding criteria.

20-VI.B. PARTNERING AGENCIES

Continuum of Care (CoC)

PHAs that accept an allocation of Stability Vouchers are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of Stability Vouchers.

PHA Policy

The PHA has entered into an MOU with OR-501 Portland/Gresham/Multnomah County Continuum of Care. The City of Portland / Multnomah County Joint Office of Homeless Services is also party to the MOU as the lead agency for the Continuum of Care. Native American Rehabilitation Association of the Northwest, Inc. is also party to the MOU as the CoC funded service provider who will make available supportive services to Stability Voucher participants.

20-VI.C. REFERRALS

CoC Referrals

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking Stability Voucher assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for Stability Voucher assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for Stability Vouchers. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for Stability Voucher assistance.

PHA Policy

As the lead agency of the Continuum of Care, the City of Portland / Multnomah County Joint Office of Homeless Services (JOHS) will make referrals of eligible families to the PHA. JOHS will certify that the Stability Voucher applicants they refer to the PHA meet at least one of the four Stability Voucher eligibility criteria. JOHS will prioritize individuals and families experiencing unsheltered homelessness. The PHA will maintain a copy of the referral and certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork.

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The JOHS will make referrals to the PHA on a schedule agreed upon with PHA. Referrals will be accompanied with a completed release form for each adult family member, and a written certification for each referral indicating they are Stability Voucher-eligible.

Other Partner Agency Referrals

The PHA must take direct referrals from outside the CoC Coordinated Entry Process if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for Stability Voucher assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), the PHA must enter into a formal partnership with another entity, such as another homeless services provider and/or victim services provider to receive referrals.

20-VI.D. HCV WAITING LIST

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to the Stability Voucher program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of Stability Vouchers by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24 (HA).

PHA Policy

The PHA will post information about the Stability Voucher program for families on the PHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which stability vouchers are limited
- Clearly state that the availability of these stability vouchers is managed through a direct referral process
- Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for stability voucher assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

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20-VI.E. STABILITY VOUCHER WAITING LIST

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the Stability Voucher program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the Stability Vouchers available, the PHA must maintain a separate waiting list for Stability Voucher referrals.

Further, the Stability Voucher waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the Stability Voucher waiting list.

20-VI.F. PREFERENCES

HCV Waiting List Preferences

Local preferences established by the PHA for HCV admissions as described in Chapter 4 do not apply to Stability Vouchers.

Stability Voucher Waiting List Preferences

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for Stability Vouchers. The PHA may, however, choose to not establish any local preferences for the Stability Voucher waiting list.

PHA Policy

No local preferences have been established for the Stability Voucher waiting list.

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20-VI.G. FAMILY ELIGIBILITY OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2022-24 (HA) and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the Stability Voucher program and outlined below.

20-VI.H. REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for a Stability Voucher, an individual or family must meet one of four eligibility criteria:

- Individuals or families who are currently experiencing homelessness as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2022-24) or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Veterans and families that include a veteran that meet one of the preceding criteria.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for Stability Voucher assistance. The PHA must retain this documentation as part of the family's file.

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20-VI.I. PHA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the Stability Voucher applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for a Stability Voucher. Instead, the Stability Voucher alternative requirement listed in this section will apply to all Stability Voucher applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2022-24 (HA) and in this chapter, however, apply only when screening the individual or family for eligibility for a Stability Voucher. When adding a family member after the family has been placed under a HAP contract with Stability Voucher assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the Stability Voucher program, mandatory denials for Stability Voucher applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited Stability Voucher grounds for denial of admission first.

> PHA Policy
>
> While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited Stability Voucher grounds for denial of admission as part of the notice of denial that will be mailed to the family.

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Permissive Denials

Notice PIH 2022-24 (HA) lists permissive prohibitions for which the PHA may, but is not required to, deny admission to Stability Voucher families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for Stability Voucher families.

If the PHA intends to establish permissive prohibition policies for Stability Voucher applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHA Policy

The PHA will not adopt any permissive prohibitions for the Stability Voucher program.

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20-VI.J. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the Stability Voucher program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to Stability Voucher families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

PHA Policy

PHA may consider self-certification the highest form of income verification at admission.

Applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. Original documents are preferred. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

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

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, 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.

If the PHA later determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

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Recently Conducted Income Determinations

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

PHA Policy

The PHA will not accept income calculations and verifications from third-party providers.

On a case-by case basis, the PHA may accept income calculations and verifications from an examination that the PHA conducted on behalf of the family for another subsidized housing program, provided they meet the criteria outlined above. Tracking and supervisory approval will be required.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

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20-VI.K. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the Stability Voucher program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the Stability program. Instead, PHAs may adopt policies to admit Stability Voucher applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will not admit Stability Voucher applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination.

20-VI.L. AGE AND DISABILITY VERIFICATION

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will not accept self-certification of date of birth and disability status if a higher form of verification is not immediately available.

20-VI.M. INCOME TARGETING

The PHA must determine income eligibility for Stability Voucher families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for Stability Voucher families. The PHA may still choose to include the admission of extremely low-income Stability Voucher families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

The PHA will not include the admission of extremely low-income Stability Voucher families in its income targeting numbers for the fiscal year in which these families are admitted.

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20-VI.N. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, Stability 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 Stability 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.

20-VI.O. INITIAL LEASE TERM

Unlike in the standard the HCV program, Stability Voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

20-VI.P. HQS PRE-INSPECTIONS

To expedite the leasing process, PHAs may pre-inspect available units that Stability Voucher families may be interested in leasing in order to maintain a pool of eligible units.

PHA Policy

The PHA will not conduct pre-inspections available units. The PHA will make every effort to fast track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

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20-VI.Q. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to Stability Vouchers. Exceptions are addressed below.

Nonresident Applicants

Under the Stability Voucher program, 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, regardless of PHA policy in Section 10-II.B.

Billing and Absorption

A receiving PHA cannot refuse to assist an incoming Stability Voucher family, regardless of whether the PHA administers Stability Vouchers under its own ACC.

- If the Stability Voucher family moves under portability to another PHA that administers Stability Vouchers under its own ACC:
  - The receiving PHA may only absorb the incoming Stability Voucher family with a Stability Voucher (assuming it has a Stability Voucher available to do so).
  - If the PHA does not have a Stability Voucher available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with Stability Voucher assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's Stability Voucher assistance, the administration of the Stability Voucher is in accordance with the receiving PHA's Stability Voucher policies.
- If the Stability Voucher family moves under portability to another PHA that does not administer Stability Voucher under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

<u>PHA Policy</u>

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for Stability Voucher families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with policies in Chapter 2.

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20-VI.R. PAYMENT STANDARDS

Payment Standard Schedule

For the Stability Voucher program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for Stability Vouchers. Lower Stability Voucher payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the Stability Voucher payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate Stability Voucher payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for Stability Vouchers, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

  The PHA must notify HUD if it establishes a Stability Voucher exception payment standard based on the SAFMR.

  <u>PHA Policy</u>

  The PHA will establish separate higher payment standards for Stability Vouchers. The Stability Voucher payment standards will be set at 120 percent of the FMR.

  At no time will the Stability Voucher payment standards fall below the HCV payment standards. If the PHA increases the HCV payment standard, the PHA will also increase the Stability Voucher payment standard if it would be otherwise lower than the new regular HCV payment standard.

Rent Reasonableness

All rent reasonableness requirements apply to Stability Voucher units, regardless of whether the PHA has established an alternative or exception Stability Voucher payment standard.

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Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to Stability Vouchers. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

PHA Policy

The PHA will not establish an alternative policy for increases in payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to Stability Vouchers.

20-VI.S. PROJECT-BASED UNITS

All tenant-based Stability Voucher awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed. No additional HUD Headquarters approvals are required for project basing Stability Vouchers beyond the normal process. All PBV requirements in 24 CFR part 983 apply for SVs except where waived as described below. The HCV regulations at 24 CFR § 983.251(c)(1) require PHAs to select families for project-based units from its HCV waiting list (or PBV waiting list, if applicable). HUD is waiving this requirement and establishing an alternative requirement that PHAs receive Stability Voucher referrals from CoC partners for vouchers as well as project-based assistance.

20-VI.T. TURNOVER

Upon turnover, Stability Vouchers must continue to remain available for families experiencing or at-risk of homelessness, those fleeing or attempting to flee domestic violence dating violence, sexual assault, or stalking, or human trafficking, and veterans and families that include a veteran family member that meet one of the proceeding criteria.

PHA Policy

Upon turnover, the PHA will take referrals from the Continuum of Care for eligible individuals and families as described in section 20-VI.C.

20-VI.U. REPORTING

PHAs awarded SVs under this notice must maintain a special program code for Stability Voucher participants in line 2n of the Family Report (form HUD-50058) or line 2p of the MTW Family Report (form HUD-50058), as applicable. The special program code is "SV." PHAs must also properly record the date the PHA issues the voucher to the eligible household in line 2a of the 50058.

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GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
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
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
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

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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
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
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

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UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

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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 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.

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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 his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In 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.

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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.

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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 (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

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 very low-income family whose annual income does not exceed the higher of the federal poverty level or 30 percent of area median income.

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.

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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 in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

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.

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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.

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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 his/her representative, or the managing agent or his/her 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.

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*.

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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 24 CFR 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.

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 24 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).

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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.

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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*).

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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 certificate 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.

Senior and People with Disabilities household. A household in which the head, spouse, or cohead is a senior or a person with disabilities.

Senior Person. An individual who is at least 55 years of age.

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 – 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 – 605.)

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.

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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. Stopping the clock on the term of a family's voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. 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 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.

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***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.

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 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(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

Work-focused household. A household in which neither the head, spouse, nor cohead is a senior or a person with disabilities.

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Attachment A: Detailed Changes to Admin and ACOP

Prepared by: Taylor Smiley Wolfe, Director of Policy and Planning
Date: December 15, 2020

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Background

In response to the COVID-19 public health emergency, the Department of Housing and Urban Development (HUD) exercised its authority under the CARES Act to establish waivers and administrative flexibilities to provide regulatory relief to Public Housing Authorities (PHAs). HUD published an initial set of waivers in PIH Notice 2020-05 on April 10, 2020, superseded by PIH Notice 2020-13 on July 2, 2020, and PIH Notice 2020-33 on November 30, 2020. In all three notices, HUD encouraged PHAs to utilize waivers to keep Public Housing and Housing Choice Voucher programs operational to the extent practicable and to expand housing assistance opportunities to address issues that increase risk of COIVD-19, like homelessness and overcrowding.

All three notices provided PHAs with the ability to make changes to their Administrative Plans (Admin Plans), which govern the Housing Choice Voucher program, and Admissions and Continued Occupancy Policy (ACOP) plans, which govern the Public Housing Program, without Board approval. Specifically, waiver HCV-1 allowed PHAs to make informal changes to their Administrative Plans without Board approval and waiver PH-4 allowed PHAs to make informal changes to their ACOP plans without Board approval. In both cases, the regulatory flexibility was made available through March 31, 2021 meaning that a PHA could make changes to their Admin and ACOP plans without Board approval through March 31, 2021. Both of these waivers also required that: “Any informally adopted revisions under this waiver authority must be formally adopted no later than June 30, 2021.”

This document outlines all of the informal changes made to Home Forward’s Admin and ACOP plans using the waiver authority granted via waivers HCV-1 and PH-4 initially in HUD Notice PIH 2020-05 and subsequently in HUD Notices PIH 2020-13 and PIH Notice 2020-33. In compliance with the requirements of these waivers, all of the changes were implemented prior to March 31, 2020 and Home Forward is requesting Board approval of these informal changes prior to June 30, 2021.

Home Forward is also requesting approval of one permanent technical change to our administrative plan to align rent increase notice requirements in the Housing Choice Voucher program with State notice requirements.

Informal Changes: Admin and ACOP

1. Annual Examination: Income Verification Requirements

Description of Current Requirements: Public Housing Authorities (PHAs) are required to obtain third-party verification via the Enterprise Income Verification (EIV) system, or document why third-party verification was not available, during mandatory reexaminations or recertification of family composition and income. HUD also describes the required verification hierarchy process that PHAs must follow during this process, which includes obtaining documentation in the following order of priority: (1) written third party verification, (2) written third party verification form, (3) oral third party verification, (4) self-certification.

Description of Home Forward Policy: Home Forward complies with HUD's requirements and uses the Enterprise Income Verification (EIV) system to verify a family's income at their examination which occurs every two or three years, depending on whether the household is "work-focused" or is a household with a senior or person with a disability.[1]

Regulatory Waiver: PH and HCV-3, PIH Notice 2020-33

Description of Alternative Authority: With waiver PH and HCV-3 in PIH Notice 2020-33, HUD waived the requirement that PHAs use the income hierarchy. This waiver allowed PHAs to forgo third-party income verification requirements for reexaminations, including the use of EIV and allowed PHAs to consider self-certification as the highest form of income verification when processing examinations. The waiver also allowed PHAs to accept self-certification through email, postal mail, through other electronic means, or over the phone (if the PHA staff contemporaneously documented the self-certification in writing. Finally, the waiver requires PHAs to address any discrepancies that arise between the income that the resident or participant self-certified and any income shown through the EIV report at a later date.

Description of Informal Change:

ACOP: Instead of strictly following the income hierarchy, staff accepted self-certification of income prior to pursuing other forms of income verification in the hierarchy.

Admin Plan: Instead of strictly following the income hierarchy, staff accepted self-certification of income prior to pursuing other forms of income verification in the hierarchy.

Period of Implementation: April 14, 2020 to June 30, 2021.

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin and ACOP plan during the period of implementation.

[1] Home Forward, Chapter 9: Recertifications, Admissions Continued Occupancy Plan, pp 9-2 to 9-4; and Home Forward, Chapter 7: Verification, Administrative Plan, pp 7-3 to 7-10.

3. Interim Examinations: Income Verification Requirements

Description of Current Requirements: At any time, a resident of the public housing program or participant of the Housing Choice Voucher program may request an interim determination of family income and the PHA must respond within a reasonable amount of time. For example, if a household member loses their job due to COVID-19, they may request and income reexamination and have their rent adjusted in accordance with their change in income. Public Housing Authorities (PHAs) are required to obtain third-party verification via the Enterprise Income Verification (EIV) system, or document why third-party verification was not available, during interim reexaminations. HUD also describes the required verification hierarchy process that PHAs must follow during this process, which includes obtaining documentation in the following order of priority: (1) written third party verification, (2) written third party verification form, (3) oral third party verification, and (4) self-certification.

Description of Home Forward Policy: Home Forward complies with HUD's requirements and uses the Enterprise Income Verification (EIV) system to verify a family's income during an interim re-examination.[2]

Regulatory Waiver: PH and HCV-4, Notice PIH 2020-33

Description of Alternative Authority: HUD waived the requirement to use the income verification requirements for interim reexaminations, including the required use of EIV. PHAs may consider self-certification as the highest form of income verification to process reexaminations. PHAs may accept self-certification through email, postal mail, through other electronic means, or over the phone (if the PHA staff contemporaneously documented the self-certification in writing). Finally, the waiver requires PHAs to address any discrepancies that arise between the income that the resident or participant self-certified and any income shown through the EIV report at a later date.

Description of Informal Change:

ACOP: Instead of strictly following the income hierarchy, staff accepted self-certification of income prior to pursuing other forms of income verification in the hierarchy.

Admin: Instead of strictly following the income hierarchy, staff accepted self-certification of income prior to pursuing other forms of income verification in the hierarchy.

Period of Implementation: April 14, 2020 to June 30, 2021.

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin and ACOP plan during the period of implementation.

[2] Home Forward, Chapter 9: Recertifications, Admissions Continued Occupancy Plan, pp 9-5 to 9-6; and Home Forward, Chapter 7: Verification, Administrative Plan, pp 7-3 to 7-10.

Informal Changes: Administrative Plan

1. Housing Quality Standards (HQS) – Initial Inspection Requirements

Description of Current Requirements: PHAs are required to inspect a unit to ensure it meets Housing Quality Standards (HQS) before any assistance payment can be made, before a Housing Assistance Payment (HAP) contract can be executed, and before the beginning of the initial lease term.

Description of Home Forward Policy: Home Forward complies with the requirement that a unit meet HQS prior to making assistance payments, executing a HAP contract, and beginning the initial lease term.[3]

Regulatory Waiver: HQS-1, Notice PIH 2020-33

Description of Alternative Authority: HUD waived the requirement that PHAs inspect a unit to ensure it meets HQS prior to making an assistance payment, executing a HAP contract, and prior to the initial lease term. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that: "the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question instead of conducting an initial inspection." The PHA must complete the initial inspection as soon as is reasonably possible, but no later than the 1-year anniversary date of the owner's certification. Home Forward may delay the initial inspection until June 30, 2021, when the waiver authority expires.

Description of Informal Change: Home Forward continued to perform initial inspections in vacant units. Home Forward accepted owner certification in lieu of performing an initial inspection in occupied units.

Period of Implementation: April 14, 2020 to June 30, 2021[4]

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

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[3] Home Forward, "Chapter 8-II.B: Initial HQS Inspection, Timing of Initial Inspections," Administrative Plan, pg 8-13.
[4] This waiver authority is available until June 30, 2021. If Home Forward received owner certification that their unit meets HQS requirements on June 30, 2021, Home Forward would have until one year after that owner's certification to complete the inspection (June 30, 2022).

2. Housing Quality Standard (HQS) – Biennial Inspections

Description of Current Requirements: PHAs are required to inspect the unit not less often than biennially during the term of the HAP contract.

Description of Home Forward Policy: Home Forward complies with the requirement to inspect units at least biennially during the term of the HAP contract.[5]

Regulatory Waiver: HQS-5, Notice PIH 2020-33

Description of Alternative Authority: HUD is allowing PHAs to delay biennial inspections for tenant-based and project-based units. All delayed inspections must be completed as soon as reasonably possible and no later December 31, 2021. PIH Notice 2020-33, which was published on November 30, 2020 required that the PHA must require owner certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question.

Description of Informal Change: The Housing Choice Voucher program has delayed biennial inspections that would have been due between April 14, 2020 and November 30, 2020 and may delay biennial inspections due between December 1, 2020 and June 30, 2021. In compliance with the new alternative requirements in PIH Notice 2020-33, if Home Forward delays a biennial inspection that would otherwise have been due between December 1, 2020 and June 30, 2021, Home Forward will require owner certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist for inspections and will complete all delayed biennial inspections by December 31, 2021.

Period of Implementation: April 14, 2020 and December 31, 2021.

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[5] Home Forward, "Chapter 8-III.D: Inspecting Units," Administrative Plan, pg 8-15; Home Forward, "Chapter 17.II.F: Cap on Number of PBV Units in each project," Administrative Plan, pg 17-20; Home Forward, "Chapter 18-III.D: Inspecting Units," Administrative Plan, pg 18-14.

3. Housing Quality Standard (HQS) – Interim Inspections

Description of Current Requirements: If a PHA receives notification by a family or government official that an assisted unit does not comply with the HQS and the condition is life-threatening, the PHA must inspect the unit within 24 hours of receiving notification. If a PHA receives notification by a family or government official than an assisted unit does not comply with the HQS but the condition is not life threatening, the PHA must inspect the unit within 15 days.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements outlined above. [6]

Regulatory Waiver: HQS-6, Notice PIH 2020-33

Description of Alternative Authority: HUD waived these requirements and provided an alternative requirement for both tenant-based and project-based units. If a reported deficiency is life-threatening, the PHA must notify the owner of the reported life threatening deficiency and the owner must correct it within 24 hours or provide documentation (text or e-mail photo to PHA) that the reported deficiency does not exist. If the deficiency is not life threatening, the PHA must notify the owner within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of receiving the PHA notification or any approved PHA extension. This waiver may also apply to PHA-owned units if the independent entity is unable to perform the inspection.

Description of Informal Change: Home Forward completed in person inspections for any complaint related to fire, life safety, no water or no heat. In these cases, we followed our standard protocols and notified the landlord with a list of repairs. If we couldn't gain access to the unit or the client denied entrance due to COVID, we notified the landlord via letter with fail items noted. Home Forward did not require in person inspections for complaints related to other issues than those outlined above. In these cases, Home Forward worked with the tenant and landlord to resolve any complaints related to noncompliance with HQS. Home Forward required owners to provide documentation that an issue had been resolved or did not exist within the time period described above.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[6] Home Forward, "Chapter 8-II.G: Inspection Results and Reinspections for units under HAP contract," Administrative Plan, pg 8-18

4. Housing Quality Standard (HQS) – PBV Turnover Unit Inspections

Description of Current Requirements: Before providing assistance to a new family in a PBV contract unit, the PHA must inspect the unit.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements outlined above.

Regulatory Waiver: HQS-7, Notice PIH 2020-33

Description of Alternative Authority: HUD waived the requirement that PHAs inspect a PBV contract unit prior to providing assistance to a new family to ensure it meets HQS. The PHA may rely on the owner's certification that: "the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question," to allow a new family to occupy the vacated unit. The PHA must complete the inspection as soon as is reasonably possible, but no later than the 1-year anniversary date of the owner's certification. This waiver may also apply to PHA-owned units if the independent entity is unable to perform the inspection.

Description of Informal Change: Home Forward continued inspections in vacant units. In cases where the unit was occupied, Home Forward's implemented an informal change to our Admin plan to accept owner-certification as outlined in alternative authority provided in the regulatory wavier above in lieu of completing an inspection.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

5. Housing Quality Standards (HQS) – Inspections to Add or Substitute Units (PBV HAP Contract)

Description of Current Requirements: The PHA may amend the Housing Authority Payment (HAP) contract to add additional Project-based Voucher (PBV) contract units or substitute a different unit for a previously covered contract unit. Proposed additional or substituted units must be inspected to ensure compliance with HQS before they may be added to the HAP contract.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements outlined above.[7]

Regulatory Waiver: HQS-8, Notice PIH 2020-33

Description of Alternative Authority: HUD waived the requirement that PHAs inspect unit prior to adding or substituting it in the HAP contract. The PHA may rely on the owner's certification that: "the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question," to add or substitute the unit in the HAP contract. The PHA must complete the inspection as soon as is reasonably possible, but no later than the 1-year anniversary date of the owner's certification. This waiver may also apply to PHA-owned units if the independent entity is unable to perform the inspection.

Description of Informal Change: Home Forward continued to comply with the regulatory requirements absent this waiver in vacant units. For occupied units, Home Forward accepted owner certification of absence of life threatening conditions.

Period of Implementation: April 14, 2020 to June 30, 2021.

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[7] Home Forward, "Chapter 17: Project Based Vouchers: Amendments to the HAP Contract," Administrative Plan, pg 17-31.

6. Housing Quality Standards (HQS) – Quality Control Inspections

Description of Current Requirements: PHAs are required to conduct supervisory quality control inspections of a sampling of units under contract.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements outlined above.[8]

Regulatory Waiver: HQS-9, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement.

Description of Informal Change: Home Forward suspended Quality Control sampling inspections during the waiver period.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[8] Home Forward, "Chapter 8-III.D: Inspecting Units," Administrative Plan, pg 8-16

7. Housing Choice Voucher – Oral Briefing

Description of Current Requirements: PHAs are required to give families selected to participate in the HCV or PBV program an oral briefing.

Description of Home Forward Policy: When a family is determined to be eligible for the Housing Choice Voucher (HCV) or Project Based Voucher (PBV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. The family must attend an oral briefing prior to being issued their voucher.[9]

Regulatory Waiver: HCV-2, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving the requirement for a family to attend an oral briefing prior to being issued their voucher. The PHA must instead conduct the briefing by other means, such as a webcast, video call, or expanded information packet.

Description of Informal Change: The Rent Assistance team conducted part of the briefings over the phone, including (1) which forms must be returned, (2) which forms to give to landlord, (3) review of maximum rent calculation sheet, and (4) time for questions. To make sure families received all of the information, Home Forward provided families with a full briefing packet and powerpoint slides.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[9] Home Forward, "Chapter 5: Briefings and Voucher Issuance," Administrative Plan, pp. 5-1 to 5-14; Home Forward, "Chapter 17-VI.E: Offer of PBV Assistance," Administrative Plan, pg 17-43; and Home Forward, "Chapter 18-V.F: Offer of PBV Assistance," Administrative Plan, pg 18-28.

8. Housing Choice Voucher (HCV) – Extension of Voucher Term

Description of Current Requirements: PHAs are allowed to grant families one or more extensions of their initial voucher term but must do so in accordance with the PHA policy as described in their administrative plan.

Description of Home Forward Policy: Home Forward's policy includes an automatic approval of a 60-day extension upon written request from the family. The request may be delivered in person, by e-mail, fax, or through a support agency on behalf of the family. The PHA may approve additional extensions only in specific circumstances.[10]

Regulatory Waiver: HCV-3, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving the requirement that extensions must be in accordance with the PHA's policy as outlined in their administrative plan to allow PHAs to provide extensions even if they have not been able to formally amend their administrative plan.

Description of Informal Change: Home Forward provided extensions in extenuating circumstances beyond what was outlined in our Administrative plan.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[10] Home Forward, "Chapter 5-II. E. Voucher Terms and Extensions," Administrative Plan, pp. 5-15 to 5-16.

9. Housing Choice Voucher (HCV) - When HAP Contract is Executed

Description of Current Requirements: PHAs may not make any housing assistance payments (HAP) to the owner until the HAP contract is executed. The PHA must make best efforts to execute the contract prior to the beginning of the lease and must execute the contract within 60 days of the beginning of the lease of the contract is void.

Description of Home Forward Policy: Home Forward complies with the regulations outlined above.[11]

Regulatory Waiver: HCV-4, Notice PIH 2020-33

Description of Alternative Authority: HUD extended the deadline by which PHAs must execute the HAP contract from 60 days to 120 days.

Description of Informal Change: Home Forward made an informal change to our Admin plan to provide HAP even if the contract was not executed within 60 days in extenuating circumstances.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[11] Home Forward, "Chapter 9-I. G. HAP Contract Execution," Administrative Plan, pg. 9-13.

10. Housing Choice Voucher (HCV) – Absence from Unit

Description of Current Requirements: PHAs are required to terminate a household's assistance if they are absent from their unit for more than 180 days.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.

Regulatory Waiver: HCV-5, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement and allows PHAs, at their discretion, to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes). If a household has been absent from their unit for more than 180 days on June 30, 2021, the PHA must terminate their assistance. PIH Notice 2020-33 added a new requirement for use of this waiver authority that is effective beginning November 30, 2020. The new requirement is that the PHA must maintain documentation in the tenant file of the extenuating circumstances that resulted in absence from the unit.

Description of Informal Change: Home Forward made an informal change to our Admin plan and used this discretion on absences of longer than 180 days during the period of availability in extenuating circumstances. For qualifying absences beyond December 31, 2020, Home Forward will maintain documentation in the tenant file about the extenuating circumstances that resulted in the absence from the unit, per the new alternative requirement articulated in PIH Notice 2020-33.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

11. Housing Choice Voucher (HCV) – Automatic Termination of HAP Contract

Description of Current Requirements: PHAs are required to terminate a household's assistance 180 days after the PHAs last payment. For example, if a household's income increases to the extent that the Housing Assistance Payment (HAP) is $0, the PHA must terminate the HAP contract 180 days from that date.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[12]

Regulatory Waiver: HCV-6, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement and allowing PHAs to extend the period of time following the last payment before assistance is terminated beyond 180 days. However, the date may not be extended beyond June 30, 2021.

Description of Informal Change: Home Forward made an informal change to our Admin plan to provide extensions for automatic termination of the HAP contract if recipients had extenuating circumstances during the period of availability.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[12] Home Forward, "Chapter 12-I. B. Family No Longer Requires Assistance," Administrative Plan, pg. 12-2.

12. Housing Choice Voucher (HCV) – Family Unification Program (FUP) Youth Age

Description of Current Requirements: The statute requires that a FUP youth be no more than 24 years old (not yet reached their 25th birthday) to be eligible to receive subsidy (housing assistance payment) through the FUP program.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[13]

Regulatory Waiver: HCV-10, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement and allowing PHAs to execute a HAP contract on behalf of any otherwise eligible FUP youth not more than 25 years of age (not yet reached their 26th birthday0.

Description of Informal Change: Home Forward made an informal change to our Admin plan to allow us to execute a HAP contract on behalf of an otherwise eligible FUP youth that is not more than 25 if needed.

Period of Implementation: December 7, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[13] Home Forward, "Chapter 4-III.B. Selection and HCV Funding Sources," Administrative Plan, pg. 4-14.

13. Housing Choice Voucher (HCV) – Family Unification Program (FUP) Length of Assistance

Description of Current Requirements: The statute limits the availability of assistance for FUP youth to a period “not to exceed 36 months”.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[14]

Regulatory Waiver: HCV-11, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement and allowing PHAs to grant FUP youth with a 6-month extension for FUP youth who will reach their 36-month time limit between April 10, 2020 and June 30, 2021.

Description of Informal Change: Home Forward made an informal change to our Admin plan to allow us to provide a 6-month extension to a FUP youth whose time-limit would otherwise end during the period of implementation, as needed.

Period of Implementation: December 7, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward’s Admin plan during the period of implementation.

[14] Home Forward, “Chapter 4-III.B. Selection and HCV Funding Sources,” Administrative Plan, pg. 4-14.

14. Housing Choice Voucher (HCV) – Family Unification Program (FUP) Referral Timeframe

Description of Current Requirements: The statute requires that assistance may be provided on behalf of "otherwise eligible youths who have attained at least 18 years of age and not more than 24 years of age who have left foster care or will leave foster care within 90 days."

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[15]

Regulatory Waiver: HCV-12, Notice PIH 2020-33

Description of Alternative Authority: HUD is extended the requirement that, to be eligible, a youth has left or will leave foster care within 90 days to within 120 days.

Description of Informal Change: Home Forward made an informal change to our Admin plan to allow us to serve youth who will leave foster care within 120 days.

Period of Implementation: December 7, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[15] Home Forward, "Chapter 4-III.B. Selection and HCV Funding Sources," Administrative Plan, pg. 4-14.

15. Housing Choice Voucher (HCV) – Removal of Unit from PBV HAP Contract

Description of Current Requirements: Under the Project Based Voucher (PBV) program a PHA is required to remove a unit from a PBV HAP contract after 180 days of zero housing assistance payments to the unit owner on behalf of the family residing in the unit.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[16]

Regulatory Waiver: HCV-14, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this regulatory requirement and allowing PHAs to extend the period of time following the last payment before assistance is terminated beyond 180 days. However, the date may not be extended beyond June 30, 2021.

Description of Informal Change: Home Forward made an informal change to our Admin plan to provide extensions for automatic removal of the unit from the PBV contract instead of removing the unit from the contract after 180 days during the period of availability.

Period of Implementation: April 14, 2020 to June 30, 2021

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

[16] Home Forward, "Chapter 17-VII. B. Lease," Administrative Plan, pg. 17-50.

16. Housing Choice Voucher (HCV) – Temporary Rent Increase Policy

Description of Current Requirements: Landlords are required to notify tenants and the PHA of any rent increases at least ninety days before any such changes will go into effect.[17] Federal regulations require that such changes are subject to rent reasonableness requirements, and subject to approval by the PHA.

Description of Home Forward Policy: Home Forward will agree to a rent increase request, if provided within legally required timeframes, only if the amount of the rent to owner is considered reasonable according to Home Forward's rent reasonableness standards. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease. No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)]. Where the owner is requesting a rent increase, Home Forward will determine whether the requested increase is reasonable within 15 business days of receiving the request from the owner. The owner will be notified of the determination in writing. Rent increases will go into effect on the first of the month following the 90 day period after the owner notifies the PHA of the rent change or on the date specified by the owner, whichever is later.[18]

Regulatory Waiver: HUD approved Home Forward's FY2020 MTW Plan on June 26, 2020, which included the alternative authority described below. Authority to implement this approach derives from Attachment C to the HUD-Home Forward MTW Agreement, Section D(2)(b) and Attachment D to the HUD-Home Forward MTW Agreement, Sections B(2) and D(1).

Description of Alternative Authority: Home Forward received authority from HUD to deny all rent increase requests, or pause the processing of all rent increase requests, from landlords of tenant-based Housing Choice Voucher holders for reasons other than non-compliance with rent reasonableness in rent setting. Home Forward will implement this approach based upon a consideration of the following factors:

(1) A consideration of financial and administrative impact on Home Forward;
(2) Rent burden on tenants participating in the Housing Choice Voucher program;
(3) Impact on participating landlords; and
(4) Other compelling situations which may include the declaration of a state of emergency.

Description of Informal Change: Home Forward made an informal change to the Admin plan to use this authority to deny rent increase requests for landlord's in the Housing Choice voucher program that would go into effect during Calendar Year 2021. The period of implementation below is from September 30, 2020 to December 31, 2021 as opposed to January 1, 2021 to December 31, 2021 because landlords must give 90 days notice before a rent increase is effective. So their rent increase requests that would impact tenants in Calendar Year 2021 would likely occur between September 1, 2020 and September 30, 2021, with effect through December 31, 2021.

Period of Implementation: September 1, 2020 to December 31, 2021.

Request of Board: Home Forward requests the board approve this informal change to Home Forward's Admin plan during the period of implementation.

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[17] Oregon Revised Statute 90.323. Home Forward's Administrative plan needs to be permanently amended to reflect this state requirement.
[18] Home Forward, "Chapter 9-I.H. Changes in lease or rent," Administrative Plan, pg. 9-14.

Informal Changes: Admissions and Continued Occupancy Policy (ACOP)

1. Public Housing – Annual Self-Inspections

Description of Current Requirements: PHAs who own or operate public housing are required to annually inspect each public housing project to determine whether units in the project are maintained to applicable standards and remain safe for residents.

Description of Home Forward Policy: Home Forward complies with the regulatory requirements described above.[19]

Regulatory Waiver: PH-12, Notice PIH 2020-33

Description of Alternative Authority: HUD is waiving this requirement that the PHA must inspect each project during Calendar Year 2020.

Description of Informal Change: Home Forward made an informal change to our ACOP to use this regulatory flexibility and not perform inspections during Calendar Year 2020.

Period of Implementation: April 14, 2020 to December 31, 2020

Request of Board: Home Forward requests the board approve this informal change to Home Forward's ACOP during the period of implementation.

[19] Home Forward, "Chapter 8-II. B. Types of Inspections," Admissions and Continued Occupancy Policy, pg. 8-8.

Permanent Change: Admin Plan

1. Housing Choice Voucher (HCV) – Notice of Rent Increase

Description of Current Requirements: Federal law requires landlords to provide 60-day notice of a rent increase to Public Housing Authorities.[20] Oregon State law requires landlords to provide tenants with at least 90-day notice in advance of the effective date of a rent increase.[21] State law prevails in this case because federal law says: "at least 60 days" so the State requirement of 90-days do not conflict.

Description of Home Forward Policy: In compliance with State law, landlords must provide Home Forward with 90-days notice of a proposed rent increase.[22]

Description of Permanent Change: Home Forward needs to permanently amend our Administrative plan to align with the State notice requirements.

Request of Board: Home Forward requests the board approve this permanent technical change to Home Forward's Administrative Plan.

Specific Changes

Deletions (italics), Additions (bold)

"Redetermination of Rent [24 CFR 983.302] - (pg. 17-59)
…..

PHA Policy (MTW)

An owner's request for a rent increase must be submitted to the PHA *60* 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing. In the event that the rent to owner for a PBV unit was initially approved at a rate exceeding the rent limits previously described in this section, a rent increase request will be denied but the rent to owner will not be decreased."

"9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308] (pg. 9-14)

PHA Policy (MTW)

The PHA will not execute a new HAP contract where there are changes in lease requirements governing tenant or owner responsibilities for utilities or appliances. If the owner and the family agree to such changes, the PHA will require a copy of written agreement executed by the owner and the family. The PHA must receive a copy of the agreement at least 30 days before the changes go into effect.

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[20] 24 CFR § 982.308 (g)(4)
[21] ORS 90.323(3)(b)
[22] Home Forward, "Chapter 9.I-8. Changes in Lease or Rent," Administrative Plan, pg. 9-14; and Home Forward, "Chapter 17-VIII.B Rent Limits," Administrative plan, pg. 17-59.

The PHA will not execute a new HAP contract where there are changes in lease provisions governing the term of the lease. The PHA must receive a copy of the new lease agreement at least 30 days before the lease start date.

Where the owner is requesting a rent increase, the PHA will determine whether the requested increase is reasonable within 15 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the *60* 90 day period after the owner notifies the PHA of the rent change or on the date specified by the owner, whichever is later."

Table 1. Summary of Informal Changes to Admin and ACOP

Policy/Regulation	Regulatory Flexibility	Public Housing (ACOP)	Housing Choice Voucher (Admin)	MTW Authority	Request of Board
Annual Examinations: Income Verification	HUD allowed PHAs to accept self-certification of income and waive use of EIV system until June 30, 2021.	Informal change to ACOP to accept self-certification of income and waive use of EIV until June 30,2021.	Informal change to Admin Plan to accept self-certification of income and waive use of EIV until June 30, 2021.	Home Forward included an activity in our FY2021 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the proposed plan on October 7, 2020. Pending HUD approval.	Approve informal changes to ACOP and Admin Plans between April 14 and June 30, 2021
Interim Examinations: Income Verification	HUD allowed PHAs to accept self-certification of income and waive use of EIV system until June 30, 2021.	Informal change to ACOP to accept self-certification of income and waive use of EIV until June 30, 2021.	Informal change to Admin Plan to accept self-certification of income and waive use of EIV until June 30, 2021.	Home Forward included an activity in our FY2021 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the proposed plan on October 7, 2020. Pending HUD approval.	Approve informal changes to ACOP and Admin Plans between April 14 and June 30, 2021
Housing Quality Standards (HQS): Initial Inspections	HUD waived requirement to perform in person initial inspections and allowed PHAs to accept owner certification of unit condition. PHAs must complete initial inspection one year from date of owner certification.	None	Informal change to Admin plan to only perform initial inspections in vacant units and accept owner-certification in occupied units until June 30, 2021.	Home Forward submitted an amendment (Amendment 1) to our FY2020 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the amendment August 5, 2020. Pending HUD approval.	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Quality Standards (HQS): Biennial Inspections	HUD allowed PHAs to delay biennial inspections for TBV and PBV until June 30, 2021. PHAs must resume biennial inspections after June 30, 2021 and complete all delayed inspections by Dec 31, 2021.	N/A	Informal change to Admin plan to delay biennial inspections by one year from their due date absent the waiver.	Home Forward submitted an amendment (Amendment 1) to our FY2020 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the amendment August 5, 2020. Pending HUD approval.	Approve informal changes to Admin Plan between April 14 and June 30, 2021.

Housing Quality Standards (HQS): Interim Inspections	HUD waived requirement for PHAs to perform inspections within certain time frames if HQS violation is reported. Allows PHAs to accept owner documentation that issue has been resolved or didn't exist.	N/A	Informal change to Admin plan to accept owner documentation issue has been resolved or didn't exist in cases where unit is occupied.	Home Forward submitted an amendment (Amendment 1) to our FY2020 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the amendment August 5, 2020. Pending HUD approval.	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Quality Standards (HQS): Adding or Substituting Units	HUD waived requirement that PBV unit must be inspected prior to adding or substituting it in HAP contract and allows PHAs to accept owner certification. Requires inspection within 1 year of owners certification.	N/A	Informal change to Admin plan to accept owner certification of absence of life threatening conditions for one year in cases where unit is occupied.	Home Forward submitted an amendment (Amendment 1) to our FY2020 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the amendment August 5, 2020. Pending HUD approval.	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Choice Voucher (HCV): Oral Briefing	HUD waived requirement that family attend oral briefing prior to issuing their voucher. Allowed PHAs to share information in other forms.	N/A	Informal change to Admin plan to conduct briefing over the phone and with an expanded information packet.	Home Forward included an activity in our FY2021 MTW plan to maintain this regulatory flexibility. Home Forward's Board approved the proposed plan on October 7, 2020. Pending HUD approval.	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Choice Voucher (HCV): Extension of Voucher Term	HUD waived the requirement that PHAs must comply with policies in their admin plan related to extended voucher term.	N/A	Informal change to Admin plan to allow Home Forward to extend voucher term in extenuating circumstances, beyond current policy	None	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Choice Voucher (HCV): When HAP Contract is Executed	HUD extended the deadline by which PHAs must execute HAP contract from 60 days to 120 days from beginning of lease term.	N/A	Informal change to Admin plan to allow Home Forward to execute HAP contract no later than 120 days from beginning of lease term.	None	Approve informal changes to Admin Plan between April 14 and June 30, 2021.
Housing Choice Voucher (HCV): Absence from Unit	HUD waived the requirement the PHAs terminate assistance if	N/A	Informal change to Admin plan to allow Home Forward to not terminate	None	Approve informal changes to Admin Plan

	household has been absent from unit for more than 180 days until June 30, 2021		assistance if household was absent for more than 180 days		between April 14 and June 30, 2021.
Housing Choice Voucher (HCV): Automatic Termination of HAP contract	HUD waived the requirement that PHAs terminate the HAP contract 180 days after last payment until June 30, 2021	N/A	Informal change to Admin plan to allow Home Forward to not terminate assistance if last HAP payment was more than 180 days ago.	None	Approve informal changes to Admin Plan between April 14, 2020 and June 30, 2021.
Housing Choice Voucher: FUP youth age	HUD waived the requirement that youth must be no more than 24 years old to be eligible, and allows youth who are no more than 25 years old to be eligible.	N/A	Informal change to Admin plan to allow Home Forward to provide FUP assistance to a foster youth who is no more than 25 years old.	None	Approve informal changes to Admin plan between Dec 7, 2020 and June 30, 2021.
Housing Choice Voucher – FUP assistance length	HUD waived the requirement that a FUP youth receive no more than 36 months assistance and allows a 6-month extension for youth whose assistance term would expire between April 10, 2020 and June 30, 2021.	N/A	Informal change to Admin plan to allow Home Forward to provide a 6-month extension of assistance to FUP youth whose assistance would expire between December 7, 2020 and June 30, 2021.	None	Approve informal changes to Admin plan between Dec 7, 2020 and June 30, 2021.
Housing Choice Voucher – FUP referral timeframe	HUD waived the requirement that, to be eligible, youth must have left foster care or be leaving foster care in 90 days. Youth may now be eligible if they are leaving within 120 days.	N/A	Informal change to Admin plan to allow Home Forward to serve youth who are leaving foster care within 120 days between December 7, 2020 and June 30, 2021.	None	Approve informal changes to Admin plan between Dec 7, 2020 and June 30, 2021.
Housing Choice Voucher: Rent Increase Policy	Using our MTW authority, Home Forward is not approving rent increase requests from landlords in the Housing Choice	N/A	Informal change to Admin plan to allow Home Forward to not approve rent increase requests from landlord's in the	Home Forward's Board approved our FY2020 plan on October 15, 2019 and HUD approved the plan on June 26, 2019. The approved plan	Approve informal change to Admin plan between Sept 30, 2020 and Sept 30, 2021

	Voucher Program for CY2021.		Housing Choice Voucher program for CY2021.	included the authority to implement this activity.	
Public Housing: Annual Self Inspections	HUD waived the requirement that PHAs annually inspect each public housing property for calendar year 2020.	Informal change to ACOP to not complete annual inspections of each public housing project in Calendar Year 2020.	N.A	None	Approve informal change to ACOP between April 14, 2020 and Dec 31, 2020.
Housing Choice Voucher: Rent Increase Notice	None	N/A	Permanent technical change to Home Forward's Admin Plan to align rent increase notice requirements in the HCV and PBV program with State requirements.	None	Approve permanent change to Admin plan

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.

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PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net assets (UNA) 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 UNA 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)(l).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA 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 UNA account without specific approval.

PHA Policy (MTW)

MTW authority allows the PHA to move funding between designated PHA programs and allows for different reserve requirements. MTW Plan language should be referenced in regards to funding requirements. Board guidance is sought for all fungibility expenses.

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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).

  PHA Policy

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

  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.

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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.

PHA Policy (MTW)

The PHA will establish its payment standards between 80 and 160 percent of the published FMR under the Moving to Work authority. Payment standards will be set for nine separate neighborhoods and broken down by unit size.

HUD has granted the PHA approval to set different payment standards for VASH voucher households, up to 160 percent of the published FMR.

The PHA may establish separate payment standards up to 120 percent of the published FMR for the following programs:

- Emergency Housing Voucher Program
- Family Unification Program
- Foster Youth to Independence Program
- Mainstream Voucher Program
- Stability Voucher Program
- Family Unification Program and Foster Youth to Independence expiration preference.

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)].

PHA Policy (MTW)

The PHA will review the appropriateness of the payment standards when the new FMRs are published. In addition to ensuring the payment standards are always within the range of 80 to 160 percent of the published FMR 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

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assisted under current payment standard amounts.

Market Rates: In analyzing market rates for different areas, the PHA may use existing studies of rents in the PHA's jurisdiction, including Multifamily NW semiannual Apartment Report. In addition, the PHA may conduct its own survey to collect and maintain data on market rents in the PHA's jurisdiction. Information sources also include newspapers, realtors, market surveys, inquiries of owners and other available sources.

The PHA will review the market data every six months as the Multifamily NW report is published. If trending data shows that a market rent for one of the established areas has changed by 10 percent and there is room within the 80 - 160% range to make an adjustment, payment standards will be adjusted within 60 days. If the shift is between 5 - 9%, the PHA will further analyze the data and adjust payment standards if deemed necessary.

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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 gross income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of gross 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 will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

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 will 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 will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

If the PHA determines that changes to payment standard amounts are necessary, the amounts will be adjusted. For regular recertifications, the effective date of the changes will be 90 days after the PHA established the new payment standard amounts. For new admissions and moves, the effective date of the changes will be the first of the month after the PHA established the new payment standard amounts.

The PHA may update its payment standards more than once a year if the PHA determines that an adjustment is necessary.

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Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

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.

PHA Policy (MTW)

The PHA may approve a payment standard of not more than 160 percent of the FMR without HUD approval for units in low poverty areas or if required as a reasonable accommodation for a family that includes a person with disabilities.

A family that is moving into a unit in low poverty area and / or requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, the PHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family share would otherwise exceed **50** percent of the family's monthly gross income (MTW); and
- The rent for the unit is reasonable.

If the PHA approves an exception, the PHA will maintain documentation that the PHA performed the required rent reasonableness analysis and the unit is in low poverty area and/ or has feature(s) required to meet the needs of the person with disabilities.

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VASH Voucher Households

HUD has granted the PHA approval to use a payment standard amount of more than 160 percent of the FMR on a case by case basis for VASH voucher households that are leasing in place after an initial placement with Supportive Services for Veteran Families (SSVF) or local rapid rehousing resources.

A VASH voucher household that is leasing in place after an initial placement with SSVF or other local rapid rehousing resources may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The household must provide documentation of an initial placement with SSVF or local rapid rehousing resources. In order to approve an exception, the PHA must determine that 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.

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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.

> PHA Policy
>
> The PHA will include an allowance for air-conditioning in its utility allowance schedule.

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.

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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

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 HQS
- A PHA determination that the unit is not in accordance with HQS due to family size or composition.

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PHA 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

PHA Policy

A request for an informal review must be made in writing and delivered to the PHA in person, by first class mail, or by facsimile, 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 15 business days of the family's request.

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.

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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.

PHA 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 and/or PHA policies, 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 15 business days of the informal review, to the applicant and, when requested as a reasonable accommodation for a disabled or elderly family, to his or her representative.

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.

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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 action 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)]

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PHA Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

For participants requesting an informal hearing for the following PHA determinations, the informal hearing will be conducted by a program supervisor other than the person who made or approved the determination in question or their subordinate:

- 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

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 an assisted unit is not in compliance with HQS. (However, the PHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR 982.551(c).)
- 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.

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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.

PHA 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.

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.

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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.

PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA in person, by first class mail, or by facsimile, 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 send a written notice of the informal hearing to the family within 15 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least 24 hours prior to the hearing date and time. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date and time, 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.

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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.

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.

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. The family must request discovery of PHA documents no later three business days prior to the scheduled hearing date.

The PHA must be given an opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the PHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later three business days prior to the scheduled hearing date.

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.

PHA Policy

Hearing officers will be assigned, appointed, hired or contracted by the Chief Operating Officer or his/her designee.

The PHA supervisors, other than the person who made or approved the PHA decision in question or their subordinate, may serve as hearing officers.

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Attendance at the Informal Hearing

PHA 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)].

PHA 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.

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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.

PHA 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 of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

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

PHA Policy

The hearing officer may ask the family for additional information before reaching a decision. If the family misses the deadline for providing additional information requested by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

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.

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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/or 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 15 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 his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole 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.

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The hearing officer may ask the family for additional information before reaching a decision. If the family misses a deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

The hearing officer may overturn the PHA's decision to terminate family's assistance on condition that the family takes certain corrective actions. If the family fails to take corrective actions by a deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

PHA Notice of Final Decision **[24 CFR 982.555(f)]**

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

If the PHA 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.

PHA Policy

If the PHA determines it is not bound by the hearing officer's decision, the PHA will mail a "Notice of Final Decision" to the participant and, when requested as a reasonable accommodation for a disabled or elderly family, to their representative. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Final Decision". A copy of the "Notice of Final Decision" will be maintained in the PHA's file.

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16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [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.

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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.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 15 business days of receiving the results.

The family must provide 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.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 15 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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.

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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.

PHA Policy

The family will be allowed to copy any documents related to the hearing. The family must request discovery of PHA documents no later than three business days 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 arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

PHA Policy

At the family's request, the PHA will provide an interpreter at no cost to the family. The family is permitted to use, at their own expense, an interpreter of their own choosing in place of or as a supplement to the free language services offered by the PHA.

The PHA may decide to provide its own, independent interpreter, even if the family chooses to use their own interpreter as well.

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.

PHA 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.

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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.

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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]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

PHA 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 with participants in accordance with the policies contained in this part as a means to recover overpayments.

The PHA will not offer to enter into repayment agreements with owners as a means to recover overpayments.

When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, collection agencies and filing a legal action.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

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16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

PHA Policy

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA's written notification of the debt to the owner. The PHA will not enter into a repayment agreement with an owner.

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

If the owner is not entitled to future HAP payments and refuses to repay the debt within the required time frame, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

PHA 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.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal 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

PHA Policy

Families will not be required to make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

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Payment Thresholds

PHA Policy

The repayment agreement's repayment terms shall be a monthly payment of amount of the family's choosing that is no less than $10 a month and no more than 10% of the family's monthly gross income. Monthly repayment terms may be no lower than $10, even if 10% of the family's gross monthly income is less than $10. A family may pay more than the stated repayment amount at any time. Any overpayments will be applied towards the total balance of the repayment agreement.

Each repayment agreement shall state the total amount owed, the monthly payment amount, the number of monthly payments due, and the date of the last payment.

Execution of the Agreement

PHA 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

PHA Policy

All payments are due by the close of business on the fifth day of the month. If the 5th day of the month does not fall on a business day, the due date is the close of business on the first business day after the 5th day of the month.

Non-Payment

PHA Policy

Families are permitted to skip payments two times in a 12-month period.

After the first skip, the PHA will send the family a written notice that payment was not received, and the new terms of the repayment agreement extended by one additional month.

After the second skip within a 12-month period, the PHA will send the family a written notice that full payment was not received, the new terms of the repayment agreement will be extended to account for the skip, and offering to renegotiate the terms of the repayment agreement if the monthly repayment amount is more than $10 a month. The second written notice must inform the family that they have 14 days to contact the PHA to renegotiate the terms of the repayment agreement and that, if no contact is made, the PHA will automatically adjust the terms of the repayment agreement to be $10 a month, if applicable.

If full payment is not received a third time within a 12-month period, the family will be in default of the repayment agreement. The PHA will terminate assistance in accordance with the policies in Chapter 12.

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No Offer of Repayment Agreement

PHA Policy

If the amounts owed by the owner exceed $4,999 and are not repaid by the owner within 30 days of the PHA determination of the debt, the amounts will be referred to HUD Office of Inspector General (OIG) for prosecution.

The PHA will not offer a repayment agreement to a family in the following limited circumstances:

- There is an active repayment agreement in place with the family that was the result of the same type of program violation by the same household member.
- The overpayment of subsidy is a result of fraud that would have made the family ineligible for the program. Fraud is defined as an act or pattern of actions done with the intent to deceive or mislead in order to gain an advantage. The act or action can include a false statement, omission, or concealment of a substantive fact. The following do not qualify as fraud:
    - An unintentional error
    - An omission or misreporting due to misunderstanding

Repayment Agreements Involving Improper Payments

Notice PIH 2018-18 requires certain provisions to 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.

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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].

PHA Policy (MTW)

The PHA participates in HUD's Moving to Work (MTW) program and submits Annual MTW Plan and Annual MTW Report to satisfy SEMAP reporting requirements.

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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].

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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 will not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • 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 for admission 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 sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • 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. • 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.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • 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.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • 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.

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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 more than 2 months overdue, according to data from PIC.

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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 prior to 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.

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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.

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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]

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.
- 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 a record of all emergency transfers requested under its emergency transfer plan under VAWA, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations [24 CFR 5.2005(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.

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16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA 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 HUD-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.*

PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

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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.

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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)]

The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

PHA Policy

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.

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 identified 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.

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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)(l) and 982.454]. 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

PHA 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, 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.

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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, Sexual Assault, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

  The length of the relationship

  The type of relationship

  The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse 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.

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- The term *affiliated individual* means, with respect to an individual:

  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

  Any individual, tenant or lawful occupant living in the household of that individual.

- The term *sexual assault* means:

  Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

- The term *stalking* means:

  Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (I) fear for the person's individual safety or the safety of others, or (2) suffer substantial emotional distress.

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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.

PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see Exhibit 16-1)

A copy of the notice to housing choice voucher owners of their rights and obligations under VAWA (see Exhibit 16-2)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

The services referral hot line to call for contact information for local victim advocacy groups or service providers: 211 or 503-222-5555.

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Notification to Program Applicants and Participants [24 CFR 5.2005(a)(l)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

PHA Policy

The PHA will provide all applicants with information about VAWA at the time of the briefing (see Section 5-I.B). The PHA will also include information about VAWA in all notices of denial of assistance (see Section 3-III.G).

The PHA will 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 notice in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

Notification to Owners and Managers

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA at least annually.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

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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, and Alternate Documentation), which must include the name of the perpetrator only if the name is safe to provide and is known to the victim

(2) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency

(3) Documentation signed by the victim and 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. 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 regulations at 24 Code of Federal Regulations (CFR) § 5.2003.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

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.

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The PHA does not require but may request two of the three forms of documentation listed above. Failure to provide the second form of documentation, if requested, is not grounds to deny relief for protection under VAWA.

Conflicting Documentation [24 CFR 5.2007(b)]

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) within 30 calendar days of the date of the request for the third-party documentation. The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) 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(b) and by following any HUD guidance on how such determinations should be made. The family will have 30 calendar days from the date of request by the PHA to provide this documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007]

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).

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence 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(a)]

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.

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16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(c)]

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 domestic violence, dating violence, sexual assault, or stalking, must be maintained 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 have access to the information unless explicitly authorized by the PHA 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 a PHA employee to provide the VAWA protections to the victim), and (3) may not disclose the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual (victim) in writing 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.

PHA Policy

If disclosure is required for use in an eviction proceeding or hearing regarding termination of program assistance, 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.

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EXHIBIT 16-1: HOME FORWARD[1] SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT[2] (VAWA) TO HOUSING CHOICE VOUCHER APPLICANTS AND PARTICIPANTS

This sample notice was adapted from Form HUD-5380

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.[3] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **the housing choice voucher program and the project-based 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 or the project- based 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.

Advocacy

The YWCA will provide support to victims and survivors of domestic violence who are receiving assistance under Home Forward's housing choice voucher or project-based voucher program. If you would like more information regarding resources available, please call 971-221-2555.

Additional contact information for local organizations and resources available to all tenants and applicants is included at the end of this notice.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program or the project-based 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.

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[1] The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

[2] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[3] 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.

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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 or the project-based voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

Your housing provider 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 housing provider chooses to remove the abuser or perpetrator, the housing provider 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 housing provider 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 housing provider must follow Federal, State, and local eviction procedures. In order to divide a lease, the housing provider 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, Horne Forward 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, Horne Forward 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

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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.

Home Forward 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.

Home Forward's emergency transfer plan provides further information on emergency transfers, and Home Forward 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

Home Forward or your landlord 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 Home Forward or your landlord must be in writing, and Home Forward or your landlord 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. Home Forward or your landlord 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 Home Forward or your landlord as documentation. It is your choice which of the following to submit if Home Forward or your landlord 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 Home Forward 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 he

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or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that Home Forward or your landlord has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, your housing provider does not have to provide you with the protections contained in this notice.

If Home Forward or your landlord 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), Home Forward or your landlord 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, your housing provider does not have to provide you with the protections contained in this notice.

Confidentiality

Home Forward and your landlord 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.

Home Forward and your landlord must not allow any individual administering assistance or other services on their behalf (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.

Home Forward and your landlord must not enter your information into any shared database or disclose your information to any other entity or individual. Home Forward or your landlord, however, may disclose the information provided if:

- You give written permission to Home Forward or your landlord to release the information on a time limited basis.
- Home Forward or your landlord 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 Home Forward or your landlord to release the information.

VAWA does not limit Home Forward's or your landlord'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, Home Forward and your landlord cannot hold tenants who have been

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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 Home Forward or your landlord 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 your housing provider can demonstrate the above, your housing provider 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 local HUD office at 971-222-2600.

For Additional Information

You may view a copy ofHUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, Home Forward must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your assigned Home Forward caseworker at 503-802-8333.

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 the following local organizations:

Gateway Center for Domestic Violence Services at 503-988-6400 or visit online at https://www.portlandoregon.gov/gatewaycenter/

Call to Safety Crisis Line at 503-235-5333

Services referral hotline at 211 or 503-222-5555 for contact information for local victim advocacy groups or service providers.

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.

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For help regarding sexual assault, you may contact the following local organizations:

Call to Safety Crisis Line at 503-235-5333

Sexual Assault Resource Center at 503-640-5311

Victims of stalking seeking help may contact the Gateway Center for Domestic Violence Services at 503-988-6400 or visit online at https://www.portlandoregon.gov/gatewaycenter/.

Attachment: Certification form HUD-5382

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EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS OF THEIR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a model notice prepared by the U.S. Department of Housing and Urban Development (HUD)

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 Home Forward'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)(l).)

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)(l)):
    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

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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).)

1. 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.)

11. 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)(l):

a. Form HUD-5382 (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

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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

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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).)

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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

Home Forward has extensive relationships with local service providers. Home Forward staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in Home Forward's Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan.

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.

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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:

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

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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 PBV percentage limitation (program cap), 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 project cap (which limits PBV assistance to the greater of 25 units or 25 percent of the units in a 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.

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PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

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, FR Notice 1/18/17]. 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)].

> PHA Policy (MTW)
>
> The PHA opted to eliminate a 20 percent of budget authority cap on project-based voucher allocations under the Moving to Work authority.

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 amount of budget authority 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]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, 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 to 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 fall into one of the categories listed above may be covered by this 10 percent exception authority only if the units are covered under a PBV HAP contract that was first executed on or after 4/18/17.

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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. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project based on a prior competition or without competition, the unit met at least one of the two following conditions:

  (i) The unit received one of the following forms of HUD assistance:

  (I) Public Housing Capital or Operating Funds (Section 9 of the 1937 Act);

  (II) Project-Based Rental Assistance (Section 8 of the 1937 Act). Project-based rental assistance under Section 8 includes the moderate rehabilitation program, including the single-room occupancy (SRO) program;

  (III) Housing for the Elderly (Section 202 of the Housing Act of 1959);

  (IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);

  (V) The Rent Supplement (Rent Supp) program (Section 101 of the Housing and Urban Development Act of 1965);

  (VI) Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or

  (VII) Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

  or

  (ii) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

  (I) Section 236;

  (II) Section 221(d)(3) or (d)(4) BMIR;

  (III) Housing for the Elderly (Section 202 of the Housing Act of 1959); or

  (IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving either PBV assistance or HCV tenant-based assistance are not covered by this exception. Both existing units and units rehabilitated under the PBV program are eligible for this exception if they meet the conditions outlined above. In addition, newly constructed units developed under the PBV program may also be excluded from the PHA

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program limitation, provided the newly constructed unit qualifies as a *replacement unit* as described in FR Notice 1/18/17 and FR Notice 7/17/17.

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.

PHA Policy (MTW)

The PHA will use its MTW authority to adapt its policies to specific buildings and/or programs utilizing project-based assistance.

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17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7] – cannot be waived by the MTW statute

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.

Relocation requirements for Section 8 Moderate Rehabilitation projects, including Mod Rehab Single Room Occupancy (SRO) projects as authorized by McKinney-Vento Homeless Assistance Act, converting to the PBV program under RAD (collectively, Mod Rehab conversions to PBV) are detailed in Notice PIH 2019-23.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8] – cannot be waived by the MTW statute

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).

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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]

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 proposals 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.

For Mod Rehab conversions to PBV under RAD, projects are selected in accordance with program requirements detailed in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply.

Units Selected Non-Competitively [FR Notice 1/18/17]

HOTMA allows a PHA to attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process, in cases where the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. FR Notice 1/18/17 outlines the conditions that must be met in order to be subject to this non-competitive exception.

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Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (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.

PHA Policy (MTW)

Joint Request for Proposals (RFP) Process

The PHA has modified owner proposal selection procedures for PBV units in order to increase Permanent Supportive Housing in the community by awarding PBV units via a local competitive process in collaboration with the City of Portland and Multnomah County. This local process includes issuing a Notice of Funding Availability and accepting proposals from housing developers and owners across the County. This effort ensures that PBVs are aligned with capital and services funding made available from the jurisdictional partners.

The proposals will be rated and ranked based on priorities and needs agreed upon within the community.

The NOFA Technical Assistance team, which consists of appointees from a cross-section of selected community agencies, will review proposals and make recommendations to the NOFA Executive Selection Committee. The Executive Selection Committee, consisting of representatives from PHB, PDC, Home Forward and Multnomah County, will review the proposals and make selection decisions.

Formal Request

The local competitive process may be waived and PBVs may be awarded based on a formal approval and resolution process by the PHA's Board of Commissioners when the property is owned directly or indirectly by the PHA, subject to HUD's requirements regarding subsidy layering. The owned units would not be subject to any required assessments for voluntary conversion.

Voter-Approved Affordable Housing General Obligation Bond Ballot Measures

From time to time, local jurisdictions may issue general obligation bonds to acquire, develop and rehabilitate land and/or properties for affordable housing. Given that local jurisdictions may be the only owner of such housing when using general obligation bonds, for this specific financing situation, the PHA designates voter-approved affordable housing general obligation bond ballot measures as a competitive process. The PHA will have permission to allocate project-based vouchers to such general obligation bond funded properties to ensure housing opportunities for very low- and extremely-low income families.

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PHA-Owned Units [24 CFR 983.51(e), 983.59, and Notice PIH 2015-05]

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. 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 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 re-determined 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.

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 Policy (MTW)

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. The MTW status will give the PHA the authority, with prior approval of the Board of Commissioners, to be eligible for award of project-based vouchers through the NOFA process, subject to local practices, without HUD authorization.

The local competitive process may be waived and PBVs may be awarded based on a formal approval and resolution process by the PHA's Board of Commissioners when the property is owned directly or indirectly by the PHA, subject to HUD's requirements regarding subsidy layering. The owned units would not be subject to any required assessments for voluntary conversion.

Voter-Approved Affordable Housing General Obligation Bond Ballot Measures

From time to time, local jurisdictions may issue general obligation bonds to acquire, develop and rehabilitate land and/or properties for affordable housing. Given that local jurisdictions may be the only owner of such housing when using general obligation bonds, for this specific financing situation, the PHA designates voter-approved affordable housing general obligation bond ballot measures as a competitive process. The PHA will have permission to allocate project-based vouchers to such general obligation bond funded properties to ensure housing opportunities for very low- and extremely-low income families.

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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.

PHA Policy

Within 20 business days of the Executive Selection Committee making the selection, the committee will notify the selected owner in writing of the owner's selection for the PBV program. The committee 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.

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 the award notifications have been sent to the owners. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

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 AHAP 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.

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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.

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17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14] – cannot be waived by the MTW statute

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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

Project Cap [24 CFR 983.56(a), FR Notice 1/18/17]

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 units (assisted or unassisted) in the project.

For Mod Rehab conversions to PBV under RAD, there is no cap on the number of units that may receive PBV assistance in each project. Section 8(o)(13)(D) of the 1937 Act and related provisions of 24 CFR 983.56, 983.257(b) and 983.262(a) and (d) do not apply (Notice PIH 2019-23).

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Exceptions to Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit project cap if:

- The units are exclusively serving elderly families
- The units are housing households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates
    - For these projects, 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].

Projects that are using the former statutory exemptions will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions to the HOTMA requirement. However, the PBV HAP contract may not be changed to the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at 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. The project must make supportive services available to all families receiving PBV assistance in the project, and the family must be eligible for one or more of the services. The family does not actually have to accept and receive supportive services for the exception to apply to the unit. 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 an excepted unit, although the family must be eligible to receive the supportive services, and the supportive services must be offered to the family. In the case of a family that chooses to participate in the supportive services and successfully completes the supportive services objective, the unit continues to be an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service.

<u>PHA Policy</u> (MTW)

The MTW authority allows the PHA to exceed the traditional 25 percent or 25-unit limit on PBV units is a single project. The PHA allows project-based vouchers to be awarded to more than 25 units or 25 percent of units in a given project.

The following types of services are encouraged at the projects with more than 25 PBV units or 25 percent of PBV units:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

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Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Eviction prevention and housing stabilization;

Supportive living for the mentally ill or other people with disabilities;

Domestic violence counseling;

Meals on Wheels;

Training in housekeeping and homemaking activities;

Family budgeting;

Child care;

Parenting skills;

Life skills;

Computer training;

Work skills development and job training.

The PHA will track services offered at the projects. The sponsor agencies may be required to submit a report to the PHA annually identifying the services received by each family.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

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. To qualify for the exception, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project without competition, the unit met at least one of the two following conditions:

(i) The unit received one of the following forms of HUD assistance:

(I) Public Housing Capital or Operating Funds (Section 9 of the 1937 Act);

(II) Project-Based Rental Assistance (Section 8 of the 1937 Act). Project-based rental assistance under Section 8 includes the moderate rehabilitation program, including the SRO program;

(III) Housing for the Elderly (Section 202 of the Housing Act of 1959);

(IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);

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(V) The Rent Supplement program (Section 101 of the Housing and Urban Development Act of 1965);

(VI) Rental Assistance Program (Section 236(f)(2) of the National Housing Act); or

(VII) Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

or

(ii) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

(I) Section 236;

(II) Section 221(d)(3) or (d)(4) BMIR;

(III) Housing for the Elderly (Section 202 of the Housing Act of 1959); or

(IV) Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving PBV assistance are not covered by the exception. Both existing units or units rehabilitated under the PBV program are eligible for this exception if they meet the conditions outlined above. In addition, newly constructed units developed under the PBV program may also be excluded from the limitation, provided the newly constructed unit qualifies as a *replacement unit* as described in FR Notice 1/18/17 and FR Notice 7/14/17.

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 percent.

PHA Policy:

On a case-by-case basis, depending on families served and services provided, the PHA may impose any 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.

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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).

PHA Policy (MTW)

The PHA will use the City of Portland's location policy (or other local practices as appropriate) as the basis for selection process.

It is the PHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. When approving sites for PBV housing, the PHA will consider both local practices and site location in census tracts that have poverty concentrations of 20 percent or less.

The PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent.

For Mod Rehab conversions to PBV under RAD, Section 8(o)(13)(C)(ii) of the 1937 Act and 24 CFR 983.57(b)(1) and (c)(2) do not apply for the existing site (Notice PIH 2019-23).

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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

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- 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] – cannot be waived by the MTW statute

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.

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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)] – cannot be waived by the MTW statute

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

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 **(cannot be waived by the MTW statute)**.

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)

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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)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

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.

If more than 20 percent of the sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

> PHA Policy
>
> At least annually during the term of the HAP contract, the PHA will 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.
>
> If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA will reinspect 100 percent of the contract units in the building.
>
> PHA Policy (MTW)
>
> In coordination with the Streamlining Compliance project for the State of Oregon, select PBV units will be inspected according to agreed upon parameters / agencies / forms / standards.
>
> Generally, Uniform Physical Condition Standards (UPCS) will be used. Identifying family, unit and address information, as well as inspection results will be shared among the interacting agencies via a shared database.
>
> A Memorandum of Understanding will be signed by all interacting agencies.

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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.

PHA Policy (MTW)

The PHA will verify corrective actions in accordance with the policies in Section 8-II.F.

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 agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PHA Policy (MTW)

The PHA opted to inspect its own units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of the inspections conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

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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)].

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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.

PHA Policy

The PHA will enter into the Agreement (agreement to enter into HAP contract) with the owner within 15 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

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17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)] – cannot be waived by MTW statute

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)] – cannot be waived under MTW statute

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.

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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.

> PHA 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.

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PART V: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

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 project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

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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). 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 contract, and the owner furnishes all required evidence of completion.

PHA Policy

For existing housing, the HAP contract will be executed within 15 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 15 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP contract, all units meet HQS, and the owner has submitted all required evidence of completion.

In addition to the HAP contract, the PHA and the owner will execute a Memorandum of Understanding.

For Mod Rehab conversions to PBV under RAD, the RAD rider (Form HUD-52611) must be attached to PBV HAP Contract for existing housing when the project qualifies as PBV "existing housing" under 24 CFR 983.3.

Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17]

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 (instead of the prior 15-year limitation) 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)].

PHA 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

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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)].

Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

By choosing to participate in the RAD program, the PHA and owner agree to an initial HAP contract term of 20 years. The PHA may agree to enter into an extension of the initial HAP contract term with the owner at any time during the initial term. The PBV HAP contract during the initial and any extended term is subject to the requirement for sufficient annual appropriated funding.

PHA 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, Memorandum of Understanding 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); 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 (i.e., terminating the HAP contract).

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.

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Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

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 a contract that is not extended, a family living at the property is entitled to receive a tenant-based voucher (the voucher that was previously providing project-based assistance for the family in the PBV project). 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. For families that wish to remain at the property, the HCV tenant-based assistance would not commence until the owner's required notice period ends.

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.

PHA 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.

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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.

PHA Policy (MTW)

If the PHA subsidy for a PBV family drops to zero based on family's income and remains at zero for 365 consecutive calendar days, the owner of a PBV unit occupied by the zero-subsidy family may:

- Request PHA approval to amend the PBV contract to substitute a different unit with the same number of bedrooms in the same project for the unit occupied by a zero-subsidy family, or
- Request to amend the PBV contract to remove the unit occupied by a zero-subsidy family from the contract reducing the number of assisted PBV units under the contract.

Addition of Contract Units [24 CFR 983.207(b), FR Notice 1/18/17]

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 the 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 its intent to add PBV units in this manner in its administrative plan, along with its rationale for adding PBVs to the specific PBV project.

PHA Policy

The PHA will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families);
- Voucher holders are having difficulty finding units that meet program requirements;
- The local Veterans Administration Veterans Affairs Supportive Housing (VASH) program staff believes adding project-based VASH will increase housing opportunities for veterans served by VASH.

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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.

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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.

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17-V.F. ADDITIONAL HAP CONTRACT 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.

PHA 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, the HAP contract and Memorandum of Understanding.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

PHA Policy

The PHA will 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.

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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.

> PHA Policy (MTW)
>
> The PHA will use its MTW authority in a manner that will provide greater access to the PBV program to low-income families with barriers. Screening and eligibility criteria may be different from the requirements for the tenant-based voucher program.
>
> The PHA will determine an applicant family's eligibility for the PBV program based on the capacity of the service provider and specific population agreed to be served in HAP contract and Memorandum of Understanding for each specific property. Partnerships with service providers and specific requirements, as laid out in HAP contract and Memorandum of Understanding, will enable the PHA to provide housing assistance to otherwise ineligible applicants.
>
> The PHA will follow the regulations governing restrictions on assistance to noncitizens in accordance with policies in Section 3-II.B **(cannot be waived by the MTW statute)**.

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Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

No Rescreening of Tenants upon Conversion

At conversion, current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the covered project, current households in the converting project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion. These protections also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the covered project. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy. A unit with a household that was over-income at the time of conversion would continue to be treated as an assisted unit. Thus, Section 8(o)(4) of the 1937 Act and 24 CFR 982.201, concerning income eligibility and income targeting of tenants at initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. Income eligibility requirements associated with new sources of financing, such as Low-Income Housing Tax Credits, do not supersede this prohibition on rescreening, and the project owner may be required to exclude Section 8 units occupied by ineligible households from being covered by the new financing's restrictions. Additionally, any owner-adopted preference shall not apply to any current resident.

Single Room Occupancy (SRO) projects (as authorized by McKinney-Vento Act)

For any new families referred to the PBV project following conversion, the PHA may choose not to apply discretionary screening criteria to admission policies for converting SRO properties. The PHA must apply all mandatory screening criteria.

PHA Policy

The PHA will not apply discretionary screening criteria to admission policies for converting McKinney-Vento SRO properties.

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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.

PHA Policy (MTW)

The owners will establish and maintain separate waiting lists for individual projects or buildings that are receiving PBV assistance. 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 owner will place the in-place family on the 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 will be given an absolute selection preference.

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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 PBV 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.

PHA Policy (MTW)

The owners will establish and maintain separate waiting lists for individual projects or buildings that are receiving PBV assistance. The owner must accept applications from anyone who chooses to apply.

The owner must procure a time clock, and all applications must be date and time stamped by machine. In addition, the owner must maintain a separate written or computer log documenting applicant name, social security number, and date and time of the application. The owner must provide a copy of the list to the PHA at least monthly.

The owner must include in its housing plan a policy on removing names from the waiting list, the dispute procedures, and reasonable accommodation processes for applicants with disabilities. The owner will provide to the PHA a list of applicants who were rejected, including applicant name, social security number, and application date. Documentation of the reason for rejection must be attached to the application form and available for audit. The owner must keep rejected application on file for three years.

All applications must be maintained in such order that allows the PHA to audit the waiting list. The PHA will give a written notice of audit to the owner. The PHA shall have full and free access to the premises and any records pertinent to the maintenance of the waiting list, including access to any computers, equipment, or facilities containing such records.

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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner may use either a time-and-date or other selection order that was approved for the project in the initial NOFA which was the basis for the PBV award and is specifically stated in the owner's housing plan and internal operating policies.

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Subsidy Standards

PHA Policy (MTW)

The owner must use the PHA's subsidy standards for tenant-based assistance in accordance with policies in Section 5-II to select applicants from the waiting list to fill vacant PBV units of appropriate sizes.

If there are no families on the waiting list that are eligible for vacant PBV units based on the PHA's subsidy standards, the owner may request PHA approval for an exception to subsidy standards allowing them to select the next largest sized family on the waiting list with the family size that meets the following criteria: (1) the unit will not be overcrowded based on HQS space standards and (2) there is a minimum of one family member per bedroom (unless an additional bedroom is requested by the family as a reasonable accommodation and is approved by the PHA in writing).

The PHA will evaluate the requests on a case-by-case basis. In deciding whether to grant approval, the PHA will consider an audit outcome showing that the owner has taken appropriate steps to market large units and is maintaining the waiting list in accordance with HUD regulations and PHA requirements.

Example: The owner has to select a family from the waiting list to fill a vacant four-bedroom unit. Before selecting a four-person family (one family member per bedroom), the owner must select families with more than four persons, in this order:

Option 1 — Select a family of 8 to 6 members that is closest to the top of the list and qualifies for a four-bedroom unit based on the PHA's subsidy standards (one bedroom for a single head of household or for married or unmarried persons living together in a spousal relationship, and one bedroom for each two persons thereafter, regardless of age or sex).

If there are no families on the waiting list that qualify for a four-bedroom unit based on the PHA's subsidy standards, request PHA approval for an exception to subsidy standards allowing to select the next largest sized family.

If PHA granted approval, select the next largest sized family in this order:

Option 2 — Select a family of 5 (if there is more than one family of 5, select the family closest to the top of the list)

Option 3 — Select a family of 4 (if there is more than one family of 4, select the family closest to the top of the list)

No further options.

Families that are selected from the waiting list based on these criteria and approved to move into vacant PBV units will be deemed qualified for that unit size.

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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.

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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 persons with a specific disability. Any individual who is qualified for the services must be able to receive the preference, including qualified individuals with disabilities, regardless of disability type [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", the PHA must give preference to qualifying families when referring families to these units [24 CFR 983.261(b), FR Notice 1/18/17].

Mod Rehab SRO Conversions to PBV under RAD [Notice PIH 2019-23]

For RAD SRO PBV conversions, the PHA must establish an admissions preference for converted properties for homeless individuals or families. The preference must apply to individuals or families that fall within the definition for homeless established by the McKinney-Vento Homeless Assistance Act and contained in the Continuum of Care Interim Rule at 24 CFR 578.3. The preference shall not apply to current residents because these residents will continue to be assisted after conversion, but will otherwise be an absolute preference with higher priority than any other preference established by the PHA. This requirement shall apply for the term of the contract and any renewal contract.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will 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).

The owner will provide a selection preference to a family receiving PBV assistance in another building if the PHA determines that the family is occupying a unit that is overcrowded to the extent that it is in violation of housing quality 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, and there are no available PBV units in the same building.

Preferences must be in accordance with the response to the initial NOFA which was the basis for the PBV award. Preferences must be specifically stated in the owner's housing plan and internal operating policies.

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For RAD SRO PBV conversions, all converted properties must establish an admissions preference for converted properties for homeless individuals or families. The preference shall not apply to current residents because these residents will generally continue to be assisted after conversion, but will otherwise be an absolute preference with higher priority than any other preference established by the owner. This requirement shall apply for the term of the contract and any renewal contract.

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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).

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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(b)].

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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will conduct tenant screening in accordance with requirements of this chapter and will refer suitable families to the PHA for program eligibility determination.

The owner will lease contract units to eligible families certified by the PHA. The family is responsible for paying security deposit to the owner. The family has to sign a written agreement to follow the building rules.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

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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.

PHA Policy

If any contract units have been vacant for 120 days and the owner/manager failed to refer families to the PHA for program eligibility determination, the PHA may give notice to the owner that the HAP contract can 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.

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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.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, 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.

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PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined suitable by the owner, determined eligible by the PHA, 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.

> PHA Policy
>
> The PHA will not provide a model lease. 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.

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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 definite terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. The term of the lease terminates if any of the following occurs:

- 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; or
- The PHA terminates assistance for the family.

PHA Policy (MTW)

The initial lease term must be for one year. After the initial term, the lease will convert to a month-to-month agreement unless the owner and tenant agree to a longer term. The owner may not refuse to renew the lease without cause.

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.

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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 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

PHA Policy (MTW)

The owner of a PBV or a moderate rehabilitation unit may terminate tenancy for cause.

The owner of a PBV or a moderate rehabilitation unit may not terminate tenancy without cause, except as follows:

- If the PHA subsidy for a PBV family drops to zero based on family's income and remains at zero for 365 consecutive calendar days, the owner of a PBV unit occupied by a zero-subsidy family may do one of the following:
    1. Terminate tenancy for a zero-subsidy family 365 calendar days after the last housing assistance payment to the owner in order to ensure that another low-income applicant can be served;
    2. Request PHA approval to amend the PBV contract to substitute a different unit with the same number of bedrooms in the same project for the unit occupied by a zero-subsidy family; or
    3. Request a PBV contract amendment to remove the unit occupied by a zero-subsidy family from the contract reducing the number of assisted PBV units under the contract.
- The owner of a PBV or a moderate rehabilitation unit must terminate tenancy if the family is absent from the unit for more than 60 consecutive calendar days and the PHA terminated family's assistance.
- The owner of a PBV or a moderate rehabilitation unit must terminate tenancy if the PHA terminated family's assistance for any reason.
- If a PBV unit is a floating unit and assistance is not attached to a specific unit, the owner may choose not to terminate tenancy without cause for the above reasons.

Whether the owner of a PBV unit chooses to terminate tenancy or not, the total number of contract PBV units must be filled with eligible PBV participant families in good standing with the PHA.

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Continuation of Housing Assistance Payments [24 CFR 983.258]

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.

PHA 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 365-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.

PHA Policy

The owner may collect a security deposit. The deposit amount may not exceed amounts charged in the private market or for other unassisted units in the building.

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 form the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

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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.

PHA Policy (MTW)

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a unit that is accessible or is overcrowded to the extent that it is in violation of housing quality standards within 15 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 a family is occupying a unit that is too large (there is less than one person per bedroom and the PHA has not approved an additional bedroom as a reasonable accommodation), the PHA will notify the family and the owner within 15 business days of the PHA's determination. The PHA will offer the family the following options:

- Move to an appropriate size PBV unit in the same building or project; and
- Stay in the same PBV unit and pay the difference in rent.

If neither option is available, the PHA will give the family a 60-day notice of termination of assistance. The PHA will terminate the housing assistance payments at the expiration of this 60-day period. The family may re-apply for assistance when the waiting list is open.

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.

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If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the family is required to move, and the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 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 60-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 60-day period.

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.

Mod Rehab Conversions to PBV under RAD [Notice PIH 2019-23]

Under-Occupied Units

If a family is in an under-occupied unit under 24 CFR 983.260 at the time of conversion, the family may remain in the unit until an appropriately-sized unit becomes available in the covered project. A household is considered to be remaining in the unit during any period of temporary relocation to permit rehabilitation of the covered project. When an appropriately-sized unit becomes available in the covered project, the family living in the under-occupied unit must move to the appropriately-sized unit within a reasonable time, as determined by the PHA.

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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.

> PHA Policy (MTW)
>
> The PHA will allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA will not give the family priority on the HCV waiting list.

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17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262, FR Notice 1/18/17]

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 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
- 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
    - For these projects, 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 PHA may not require participation in the supportive services as a condition of living in an excepted unit, although the family must be eligible to receive the supportive services, and the supportive services must be offered to the family. As such, the PHA may not rely solely on a supportive services program that would require the family to engage in the services once enrolled, such as FSS, for the unit to qualify for the supportive services exception. In the case of a family that chooses to participate in the supportive services and successfully completes the supportive services objective, the unit continues to be an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service. However, if a family becomes ineligible for the supportive services during their tenancy (for reasons other than successfully completing the supportive services objective), the unit will no longer be considered an excepted unit under this category. The family would have to be ineligible for all the supportive services made available for the unit to lose its excepted status. If the PHA does not want to reduce the number of excepted units in their project-based portfolio, the PHA may: (i) substitute the excepted unit for a non-excepted unit if it is possible to do so in accordance with 24 CFR 983.207(a), so that the unit does not lose its excepted status, or (ii) temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance [FR Notice 7/14/17].

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 the unit, where through circumstances beyond the control of the family (e.g., death 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 count 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 qualifying family.

PHA Policy (MTW)

The MTW authority allows the PHA to exceed the traditional 25 percent or 25-unit limit on PBV units is a single project. The PHA allows project-based vouchers to be awarded to more than 25 units or 25 percent of units in a given project.

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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.

For Mod Rehab conversions to PBV under RAD, the applicable FMR used for SRO units for initial and re-determined rents shall be the zero-bedroom FMR (Notice PIH 2019-23).

PHA Policy (MTW)

At any time, the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed applicable payment standard for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Ongoing approved rent to owner will never fall below the initial rent to owner approved for a PBV project.

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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 building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 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 building 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 accordable 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 accordable 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.

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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 standard 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.

PHA Policy (MTW)

Upon written request by the owner, the PHA will consider using the payment standard 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 payment standards 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 payment standard 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.

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Payment Standards for Service-Enriched Buildings

PHA Policy (MTW)

The PHA may use an alternate rent setting policy that will allow the Director of Rent Assistance, with Board approval, to set payment standards that are greater than 110 percent (up to a maximum of 150 percent) of the applicable FMR, without requesting HUD approval, for service-enriched buildings.

For buildings entering into the new PBV contracts, the request for an alternate payment standard must be submitted and approved prior to entering into a HAP contract between the PHA and the owner for PBV units. For buildings under an existing PBV contract, the request for an alternate payment standard must be submitted and approved 60 days prior to the anniversary date of the HAP contract.

Financial impact information will be required of owners serving the population and must show that the property cannot sustain the service model without additional revenue. Data will be required of the owner to verify the value of services being provided and show that the services will directly benefit PBV participants.

Director of Rent Assistance and Chief Operating Officer have discretion to approve/disapprove all requests based upon financial capacity of the HCV program, local housing needs, documentation submitted by the owner, and other factors.

The payment standard granted will apply to all units under the PBV contract serving a highly vulnerable population with intensive services.

The cost of the services will not be included when conducting rent reasonableness determinations.

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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).

> PHA Policy (MTW)
>
> An owner's request for a rent increase must be submitted to the PHA 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.
>
> In the event that the rent to owner for a PBV unit was initially approved at a rate exceeding the rent limits previously described in this section, a rent increase request will be denied but the rent to owner will not be decreased.

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.

> PHA Policy
>
> The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

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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.

PHA Policy (MTW)

The PHA opted to determine the initial rent to owner and the annual redetermination of rent for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of initial determination and annual redetermination of rent conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of initial determination and annual redetermination of rent by a third-party outside agency.

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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 Policy (MTW)
>
> The PHA will perform comparability analysis in accordance with the policies in Section 8-III.D.

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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.

PHA Policy (MTW)

The PHA opted to determine rent reasonableness for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of rent reasonableness determinations conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of rent reasonableness determinations by a third-party outside agency.

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.

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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) 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 **(cannot be waived by the MTW statute)**.

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.

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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.

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.

PHA Policy

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

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At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 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.

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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.

PHA Policy (MTW)

The PHA will use its MTW HCV calculation method to determine the tenant rent and the PHA subsidy amount. For a discussion on rent and subsidy determination, see Chapter 6.

For families currently residing in PBV units using different calculation methods, those methods will convert to the HCV calculation at the time of the next regular recertification.

When the PHA revises its payment standards during the term of the PBV Housing Assistance Payments Contract, it will apply the new payment standards as follows:

- If the amount of the payment standard is increased during the term of the PBV Housing Assistance Payments Contract, the increased payment standard will be used to calculate the monthly housing assistance payment for all PBV units beginning on the first anniversary date of the PBV Housing Assistance Payments Contract following the effective date of the increase in the payment standard.
- If the amount of the payment standard is decreased during the term of the PBV Housing Assistance Payments Contract, the decreased payment standard will be used to calculate the monthly housing assistance payment for all PBV units beginning on the second anniversary date of the PBV Housing Assistance Payments Contract following the effective date of the decrease in the payment standard.

Any changes to the utility allowances will be applied at the same time as the payment standard adjustments.

Mod Rehab Conversions to PBV under RAD

Regardless of age / disability, households residing in converted RAD Mod Rehab projects meet the definition of *Senior and People with Disabilities Household* in regard to rent calculation under rent reform.

The tenant rent and PHA subsidy amounts for households in converted RAD Mod Rehab projects will be determined as follows:

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

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For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

Revised utility allowances will be applied to the family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

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.

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Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

> PHA Policy (MTW)
>
> The PHA will make utility reimbursements to eligible families in accordance with policies in Chapter 6.

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.

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Chapter 18

PROJECT BASED VOUCHERS (PBV) FOR PUBLIC HOUSING CONVERSIONS TO THE PBV PROGRAM UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

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PART I: GENERAL REQUIREMENTS

18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

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18-I.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-2 (issued June 15, 2015) and Notice PIH 2012-32, REV-3 (issued January 12, 2017).

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), and Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. Notice PIH 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.
- Notice PIH 2012-32, REV-2, RAD – Final Implementation,REV-2 is applicable to projects converting assistance through RAD upon the expiration of the 30-day comment period after publication of the Notice. PIH Notice 2012-32, REV-2 was published June 15, 2015.

NOTE: The policies in this chapter follow Notice PIH 2012-32, REV-3.

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- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demontration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016 , AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

NOTE: The policies in this chapter follow Notice PIH 2016-17.

- RAD FAQs (http://www.radresource.net/search.cfm)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

PHA Policy (MTW)

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

The PHA will use its MTW authority to adapt its policies to specific buildings and/or programs utilizing PBV assistance. The PHA will apply activities impacting the PBV program that are approved in its MTW Plan to RAD PBVs as noted in this chapter, provided they do not conflict with RAD requirements.

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18-I.D. RELOCATION REQUIREMENTS [Notice PIH 2016-17]

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broaded than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

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Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tatics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

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18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2012-32, REV-3]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

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PART II: PBV PROJECT SELECTION

18-II.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2012-32, REV-3]

Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. The requirement for a public or non-profit entity is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.

If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member;
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
- The PHA retains control over leasing the property and determining program eligibility;
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
- Other means that HUD finds acceptable

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18-II.C. PHA-OWNED UNITS [24 CFR 983.59; Notice PIH 2012-32, REV-3; FR Notice 1/18/17]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

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.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

> PHA Policy (MTW)
>
> The PHA opted to perform rent setting and inspection functions for the PHA-owned units under the Moving to Work authority.
>
> The PHA will contract an outside agency to conduct a five percent quality control test of the rent setting and inspections conducted by the PHA when buildings are owned and managed by the PHA.
>
> Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of the rent setting and inspections by a third-party outside agency.

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18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2012-32, REV-3]

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:

- Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA close-out reserve). Any funds not needed for public housing close-out costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

18-II.E. PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3]

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

There is no cap on the number of units that may receive PBV assistance in a project.

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18-II.F. SITE SELECTION STANDARDS [Notice PIH 2012-32, REV-3; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2012-32, REV-3]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted as part of the financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2012-32, REV-3.

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PART III: DWELLING UNITS

18-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

18-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)

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18-III.D. INSPECTING UNITS

Initial Inspection [Notice PIH 2012-32, REV-3]

Under RAD, all units must meet HQS no later than the date of completion of the work as indicated in the RCC.

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.

PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with 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.

PHA Policy (MTW)

In coordination with the Streamlining Compliance project for the State of Oregon, select PBV units will be inspected according to agreed upon parameters / agencies / forms / standards.

Generally, Uniform Physical Condition Standards (UPCS) will be used. Identifying family, unit and address information, as well as inspection results will be shared among the interacting agencies via a shared database.

A Memorandum of Understanding will be signed by all interacting agencies.

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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.

PHA Policy (MTW)

The PHA will verify corrective actions in accordance with the policies in Section 8-II.F.

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 agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PHA Policy (MTW)

The PHA opted to inspect its own units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of the inspections conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

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PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18-IV.A. OVERVIEW

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide (10/14)]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2012-32, REV-3]

The initial term of the HAP contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of 15 years, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2012-32, REV-3]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

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Mandatory Contract Renewal [Notice PIH 2012-32, REV-3]

By statute, upon contact expiration, the agency administering the vouchers must offer, and the project owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently, 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply to the extent that these provisions make renewal or extension decisions purely discretionary.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for 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.

PHA Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance 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.

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18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2012-32, REV-3]

In certain mixed-finance projects, the PHA may ask HUD permission to have assistance float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

Reduction in HAP Contract Units [Notice PIH 2012-32, REV-3]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where "floating" units have been permitted.

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

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18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, he or she 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 (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

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18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy

The PHA will 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.

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PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2012-32, REV-3]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2012-32, REV-3 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

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18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, 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.

PHA Policy (MTW)

The PHA will use its MTW authority in a manner that will provide greater access to the PBV program to low-income families with barriers. Screening and eligibility criteria may be different from the requirements for the tenant-based voucher program.

The PHA will follow the regulations governing restrictions on assistance to noncitizens in accordance with policies in Section 3-II.B.

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18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2012-32, REV-3]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

PHA Policy (MTW)

The owners will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

The applicants on the public housing site-based waiting list at the time of conversion will be transferred to the PBV site-based waiting list and will have priority for occupancy at the converted site within each preference category over applicants that applied after conversion.

The owner will maintain the waiting list for the converted project in accordance with policies in this chapter and tenant selection plan for the project.

For any applicants selected from the RAD PBV waiting list that are ineligible for admission to a covered project because the household's TTP exceeds the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists.

To the extent any waiting list relies on the date and time of application, the applicants will have priority on the waiting lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the site-based waiting lists in accordance with all applicable civil rights and fair housing laws and regulations.

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18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

PHA Policy (MTW)

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the owner's waiting list in accordance with the tenant selection plan for the converted project.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2012-32, REV-3]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2012-32, REV-3]

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 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 persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

PHA Policy (MTW)

Applicants who will occupy units with RAD PBV assistance must be selected from the owner's waiting list in accordance with the tenant selection plan for the converted project.

If the PHA determines that a RAD PBV 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, and there are no available RAD PBV units in the same project, the owner will provide a selection

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preference to the family in another PHA-managed RAD PBV project or at a PHA-managed public housing property.

Preferences must be specifically stated in the owner's tenant selection plan and internal operating policies.

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18-V.F. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

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18-V.G. 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.

PHA Policy (MTW)

Applicants who will occupy units with PBV assistance must be selected from the owner's waiting list. The owner will conduct tenant screening in accordance with requirements of this chapter and will refer suitable families to the PHA for program eligibility determination.

The owner will lease contract units to eligible families certified by the PHA. The family is responsible for paying security deposit to the owner. The family has to sign a written agreement to follow the building rules.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

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18-V.H. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

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PART VI: OCCUPANCY

18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18-VI.B. LEASE [24 CFR 983.256; Notice PIH 2012-32, REV-3]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2012-32, REV-3]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of Notice PIH 2012-32, REV-2.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

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Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definite terms (e.g., month-to-month or year-to-year) or for an automatic indefinite extension of the lease term. The term of the lease terminates if any of the following occurs:

- 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.

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Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner. See Chapter 16 Part III: Informal Reviews and Hearings for more information.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

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Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2012-32, REV-3]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time that the family's TTP falls below the gross rent, the rent to owner for the unit will equal the lesser of the family's TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if the family's TTP falls below the gross rent and HAP is paid on their behalf. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180 day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

PHA Policy (MTW)

For any new families admitted after the conversion, assistance will be terminated 365 days after the last housing assistance payment on their behalf.

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 365-day period.

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Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

PHA Policy

The owner may collect a security deposit. The deposit amount may not exceed amounts charged in the private market or for other unassisted units in the building.

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.

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18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2012-32, REV-3]

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 current fiscal year (FY) PH FSS notice of funding availability (NOFA), to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV, and PBRA participants in its FSS program.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2012-32, REV-3]

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.

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18-VI.E. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]

All in-place tenants at the time of conversion are eligible to remain in the project. If a family is in an under-occupied unit at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the covered project. When an appropriate-sized unit becomes available in the covered project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the PHA. Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA will notify the RAD PBV family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 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 RAD PBV project

If there are no appropriate-size units in the same project, PBV assistance in another PHA-managed RAD PBV project or occupancy of a public housing unit at a PHA-managed property

If an appropriate-size unit is not available within six months from the PHA's determination of the family's need to move, the PHA will offer the family the opportunity to receive tenant-based voucher assistance at the end of the six-month period.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

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If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 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 60-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 60-day period.

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.

The family may choose to remain in a smaller unit if the unit is not overcrowded to the extent that it is in violation of the housing quality standards. If the family chooses to remain in the smaller unit, it will not be allowed to request a transfer due to subsidy standards at a later date unless there is another change in the household size.

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.

For PBVs entered into outside of the context of RAD, the PHA uses its MTW authority to allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA does not give the family priority on the HCV waiting list. (See PHA policy in Section 17-VII.C.

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Choice Mobility [Notice PIH 2012-32, REV-3]

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 lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

PHA Policy

This policy applies only to RAD PBV families residing in covered projects. This policy does not apply to PBVs entered into outside of the context of RAD.

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement at a RAD PBV project.

The PHA will place RAD PBV families wishing to exercise mobility on the tenant-based HCV waiting list in the order in which the requests from eligible families were received. RAD PBV families wishing to exercise choice mobility will be given priority over other families on the tenant-based waiting list. If the family does not utilize a voucher and continues occupancy in the RAD PBV assisted unit at the converted project, the family may request a new voucher twelve months after the previous voucher expired. The family must be residing in a RAD PBV unit at the time of voucher issuance.

For PBVs entered into outside of the context of RAD, the PHA uses its MTW authority to allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA does not give the family priority on the HCV waiting list. (See PHA policy in Section 17-VII.C.)

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Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the families are placed on the waiting list in the order in which the requests from eligible families were received.

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18-VI.F. REEXAMINATIONS [PBV Quick Reference Guide (10/14)]

A family living in a unit undergoing a conversion of assistance from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2012-32, REV-3]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

PHA Policy (MTW)

The EID exclusion has been eliminated as part of the PHA's rent reform initiative.

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18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2012-32, REV-3]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV require that PHAs provide adequate written notice of termination of the lease, which shall be:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2012-32, REV-3]

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a project 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 project owner will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the project owner or contract administrator.

The project owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(vi). (See Chapter 16)

The project owner must provide an opportunity for an informal hearing before an eviction.

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PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2012-32, REV-3]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2012-32, REV-2. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and initial contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.

Initial contract rents cannot exceed the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the applicable FMR (or applicable exception payment standard, or rent cap approved in a PHA's MTW Plan), minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner

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18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]

Contract rents will be adjusted annually by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent may not be reduced below the initial contract rent for units under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

PHA Policy (MTW)

The PHA opted to determine the initial rent to owner and the annual redetermination of rent for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of initial determination and annual redetermination of rent conducted by the PHA when buildings are owned and managed by the PHA.

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Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of initial determination and annual redetermination of rent by a third-party outside agency.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

18-VII.C. UTILITY ALLOWANCES [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.

After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. These utility allowances are effective for in-place families at recertification.

PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD developments.

After conversion, revised utility allowances will be applied to a family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

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18-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

> PHA Policy (MTW)
>
> The PHA will perform comparability analysis in accordance with the policies in Section 8-III.D.

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.

> PHA Policy (MTW)
>
> The PHA opted to determine rent reasonableness for the PHA-owned units under the Moving to Work authority.
>
> The PHA will contract an outside agency to conduct a five percent quality control test of rent reasonableness determinations conducted by the PHA when buildings are owned and managed by the PHA.
>
> Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of rent reasonableness determinations by a third-party outside agency.

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PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

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18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the PHA will notify the owner of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

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18-VIII.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.

The PHA's rent reform initiative has established a rent and subsidy calculation methodology that distinguishes between two household types: seniors / people with disabilities and the work-focused households. Rent and subsidy amounts are determined based on a household type and year of participation in the rent reform. This section explains how rent and subsidy are determined for RAD PBV households. The household types, TTP formula, and minimum tenant rent are defined in Section 6-III.C.

PHA Policy (MTW)

Beginning in November 2021, the tenant rent and subsidy amounts for RAD PBV households will be determined as follows for all household types:

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

Previously, the tenant rent and PHA subsidy amounts for RAD PBV households were determined as described below.

For seniors and people with disabilities households, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP. This formula will be used throughout the household's participation in the rent reform.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

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When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For work-focused households, the PHA subsidy and tenant rent to owner will be determined as follows:

For years 1 and 2, the PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the gross rent minus TTP.

For mixed families, the monthly HAP for a family will be reduced by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of (1) the monthly HAP for a family or (2) the rent to owner.

The tenant rent to owner is the rent to owner minus HAP to owner.

When the monthly HAP for a family exceeds the rent to owner, the PHA will allow utility reimbursement to the family.

For years 3 and greater, a maximum monthly HAP for a family is the gross rent minus TTP.

The tenant rent to owner is the greater of the following amounts:

- The rent to owner minus maximum monthly HAP for a family, or
- Minimum tenant rent

For mixed families, the tenant rent will be increased by a flat amount in accordance with policies in Section 6-III.H.

The monthly HAP to owner is the lower of the following amounts:

- Maximum monthly HAP for a family, or
- The rent to owner minus the tenant rent to owner.

Utility reimbursements to the family are not allowed.

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.

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Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

> PHA Policy (MTW)
>
> The PHA will make utility reimbursements to eligible families in accordance with policies in this section.

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18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2012-32, REV-3]

For in-place tenants, 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 three or five years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

PHA Policy (MTW)

For purposes of this policy, "standard TTP" refers to the TTP calculated in accordance with policies in Chapter 6 and the "most recently paid TTP" refers to the TTP recorded on the family's most recent Form HUD-50058.

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 a period of three years. The PHA will implement the phase-in as follows:

Year 1: Twelve months after conversion – 33 percent of difference between most recently paid TTP and the standard TTP at the start of Year 1 and any recertification prior to Year 2

Year 2: Twenty-four months after conversion – 66 percent of difference between most recently paid TTP and the standard TTP at the start of Year 2 and any recertification prior to Year 3

Year 3: Thirty-six months after conversion – full standard TTP at the start of Year 3 and all subsequent recertifications.

Note: Once the tenant's standard TTP is equal to or less than the previous TTP, the phase-in ends and the tenant will pay the full TTP from that point forward. For example, if a tenant's previous TTP was $300 and their new (standard) TTP is reduced to $200 because of loss of income, the phase-in will end.

18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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Chapter 20

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)
- Stability Vouchers

PHA Policy

The PHA will administer the following types of special purpose vouchers:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Stability Vouchers

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into six 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

Part VI: Stability 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.

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PART I: FAMILY UNIFICATION PROGRAM (FUP)

20-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]

Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

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Assigning Vouchers [FUP FAQs]

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

PHA Policy

The PHA has designated 75% of FUP vouchers for families and 25% for youth.

20-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 20-I.C. and 20-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

PHA Policy

The PHA has entered into an MOU with the following partnering organizations: Oregon Department of Human Services Child Welfare Division, City of Portland / Multnomah County Joint Office of Homeless Services, Multnomah County Department of County Human Services, Youth and Family Services Division.

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Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

PHA Policy

Oregon Department of Human Services Child Welfare Division and/or member organizations of the Multnomah County Homeless Youth Continuum will provide supportive services for all FUP youth for a period of 36 months as indicated in the FUP MOU.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

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20-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

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- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part II of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

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20-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].

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20-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance (Fostering Stable Housing Opportunities)

Per the Fostering Stable Housing Opportunities amendments enacted as part of the Consolidated Appropriations Act, 2021, FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for the length of their FSS contract as part of the Family Unification Program and Family Self Sufficiency Demonstration. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

  PHA Policy

  The PHA defines *incapacitated person* as a person whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur.

  The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

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The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

  PHA Policy

  The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

  PHA Policy

  The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

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Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- For not less than 9 months of the 12-month period preceding each extension, the youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

  PHA Policy

  The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- For not less than 9 months of the 12-month period preceding each extension, the youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

  PHA Policy

  Youth must be enrolled for a minimum of six credit hours. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

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- For not less than 9 months of the 12-month period preceding each extension, the youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual's education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- For not less than 9 months of the 12-month period preceding each extension, the youth was employed.

PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 30 hours per month. The PHA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at least 60-days prior to the end of the youth's 24th month of assistance of the education, workforce development, and employment requirements described above.

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FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

PHA Policy

The PHA is participating in the Family Unification Program and Family Self Sufficiency Demonstration. FUP youth may be offered an FSS slot between the 48-month mark and the 60-month mark.

Family Unification Program and Family Self Sufficiency Demonstration [Notice PIH 2016-01]

The PHA participates in a demonstration testing the effectiveness of combining housing choice vouchers for FUP-eligible youth with assistance under the Family Self Sufficiency (FSS) program. This demonstration extends the statutory time limit on voucher assistance to match the length of the FSS contract.

Program participants with a FUP youth voucher who agree to sign an FSS Contract of Participation will maintain their housing assistance for a period not exceeding the length of the FSS Contract of Participation. In most cases, the limit will be no more than five years; however,

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if the FSS Contract of Participation is extended, in accordance with 24 CFR 984.303(d), the FUP youth voucher can be extended for the entire length of the FSS Contract of Participation.

Families cannot be required to participate in the FSS program as condition of receipt of assistance under the HCV program, including receipt of a FUP voucher. However, only FUP youth that sign an FSS Contract of Participation may benefit from the extension of the time limit for voucher assistance.

PHAs must review the availability of this demonstration with all FUP youth during the family briefing. Current FUP youth must be given opportunity to participate.

PHA Policy

The PHA will notify eligible youth about the FUP and FSS Demonstration in partnership with the local DHS office and Homeless Youth Continuum of Care during the program specialized orientations and family briefings.

The PHA, in partnership with the local DHS office and Homeless Youth Continuum of Care, will conduct one-time in-person orientation to current FUP youth participants to notify them of this opportunity. The notice will provide information on how this demonstration works, including an explanation that while the families are not required to participate in the FSS program as condition of receipt of FUP voucher assistance, only FUP youth that sign an FSS Contract of Participation may benefit from the extension of the time limit for voucher assistance. The time frame to enroll will be 60 days from PHA notification or before the conclusion of the statutory time limit of the FUP youth voucher, whichever is earlier.

If a FUP youth participating in this demonstration fails to comply with the terms and conditions of the FSS Contract of Participation without good cause and is terminated from the FSS program, the FUP youth is no longer considered a participant in this demonstration. With FSS termination, the FUP youth is subject to the statutory limit of the FUP youth voucher, beginning from the time the first HAP contract is signed. If FUP youth has been assisted for more than 36 months, the PHA may terminate assistance to the FUP youth household. FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance) if they meet one of the statutory exceptions listed in Section 20.I.E. The PHA may not terminate voucher assistance for FUP youth because of failure to comply with an FSS Contract of Participation prior to the end of the first 36 months of assistance.

Prior to terminations, PHAs offer an informal hearing to a FUP youth wishing to appeal a PHA decision to terminate. Policies specifying such hearing procedures are included in the PHA's FSS Action Plan.

The requirements of compliance and consequences for not complying with the terms and conditions of the FSS Contract of Participation are reviewed with the FUP youth at the time the FSS Contract of Participation is signed.

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No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to 36-months and 48-months of Assistance

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to the end of their 36th and 48th-months of assistance. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

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The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

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Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

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20-I.F. REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement and Selection

As of August 2024, the PHA follows its MTW Tenant-Based Set Aside Activity in Chapter 4.

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20-I.G. PHA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

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20.I.H. LEASE UP [FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

  PHA Policy

  Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually or in groups with other FUP youth. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

  For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

Payment Standards

As of August 2024, the PHA follows its MTW Broaden Range of Approved Payment Standards Activity to establish separate higher payment standards for FUP.

Additionally, the PHA may set separate higher payment standards for families served with the Family Unification Program and Foster Youth to Independence expiration preference. For more detail see Chapter 16-II.B.

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20-I.I. TERMINATION OF ASSISTANCE

General Requirements

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

PHA Policy

The PHA will not transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

FUP Youth Vouchers

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

PHA Policy

As described in Chapter 4, the PHA has a limited local preference for assisted families, including individual youth, that are currently served in the Family Unification Program-Youth (FUP), Foster Youth to Independence (FYI), or Moving to Work-funded FUP rental assistance extension programs administered by the PHA, if the following circumstances apply:

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FUP Youth/FYI assisted family includes a head of household who is a person with disabilities, as defined in 24 CFR 5.403, and whose voucher is expiring due to the 36-month statutory time limit for FUP Youth and FYI programs; or

FUP Youth/FYI assisted family's voucher assistance is ending after family has used all available Fostering Stable Housing Opportunities extensions or extensions available for participants of the Family Unification Program Family Self-Sufficiency Demonstration; or

Assisted family's Moving to Work-funded FUP rental assistance extension program assistance is expiring.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

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20-I.J. FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

20-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

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PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

20-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 though 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.

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20-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 Oregon Department of Human Services Child Welfare Division.

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 City of Portland / Multnomah County Joint Office of Homeless Services, and the member organizations of the Multnomah County Homeless Youth Continuum.

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20-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.
    - 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.

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20-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.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

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20-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.

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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.

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

As of August 2024 the PHA follows its MTW Tenant-Based Set Aside Activity in Chapter 4.

20-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.

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

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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.

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20-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 or in groups with other FYI youth. 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.

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].

Payment Standards

As of August 2024, the PHA follows its MTW Broaden Range of Approved Payment Standards Activity to establish separate higher payment standards for FYI.

Additionally, the PHA may set separate higher payment standards for families served with the Family Unification Program and Foster Youth to Independence expiration preference. For more detail see Chapter 16-II.B.

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.

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20-II.H. MAXIM]UM 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 (Fostering Stable Housing Opportunities)

Per the Fostering Stable Housing Opportunities amendments enacted as part of the Consolidated Appropriations Act, 2021, 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.

  <u>PHA Policy</u>

  The PHA defines *incapacitated person* as a person whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is likely to occur. 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.

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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.

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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:

- For not less than 9 months of the 12-month period preceding each extension, 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.

- For not less than 9 months of the 12-month period preceding each extension, 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 a minimum of six credit hours. 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.

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- For not less than 9 months of the 12-month period preceding each extension, 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).
- For not less than 9 months of the 12-month period preceding each extension, 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 30 hours per month. 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 least 60-days prior to the end of the youth's 24th month of assistance 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:

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- 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

After 36-month and 48-month's of housing assistance, 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 36-months and 48-months of Assistance

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-

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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. 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 the end of their 36th and 48th months of assistance. 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.

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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.

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.

20-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
>
> As described in Chapter 4, the PHA has a limited local preference for assisted families, including individual youth, that are currently served in the Family Unification Program-Youth (FUP), Foster Youth to Independence (FYI), or Moving to Work-funded FUP rental assistance extension programs administered by the PHA, if the following circumstances apply:

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FUP Youth/FYI assisted family includes a head of household who is a person with disabilities, as defined in 24 CFR 5.403, and whose voucher is expiring due to the 36-month statutory time limit for FUP Youth and FYI programs; or

FUP Youth/FYI assisted family's voucher assistance is ending after family has used all available Fostering Stable Housing Opportunities extensions or extensions available for participants of the Family Unification Program Family Self-Sufficiency Demonstration; or

Assisted family's Moving to Work-funded FUP rental assistance extension program assistance is expiring.

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20-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.

20-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.

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PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

20-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.

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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.

20-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 for referral and application.

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20-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21, FR-6476-N-01]

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, the PHA will follow the SSN verification hierarchy and use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSN and at least one third-party document, e 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.

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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.

PHA Policy

The PHA will exclude all VA service-connected benefits received by the VASH applicant in addition to the income exclusions listed under 24 CFR 5.609(b). While the **VA service-connected disability benefits are excluded for purposes of determining income eligibility**, they are included for purposes of calculating the total tenant payment, housing assistance payment, and family share.

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.

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20-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 11-II.C. 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 Chapter 3 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.

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20-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.

PHA Policy

The PHA will establish separate higher payment standards for HUD-VASH. The HUD-VASH payment standards will be set at 120 percent of FMR.

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.

Special Housing Types [FR-6476-N-01]

The PHA will permit VASH clients to use single room occupancy (SRO), congregate housing,

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group homes, shared housing, and cooperative housing types for tenant-based VASH assistance. VASH PBV cannot be applied to shared housing.

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 90 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

The PHA will not pre-inspect units.

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20-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.

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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. 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.

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20-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.

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20-III.H. PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21, FR Notice 9/27/21, FR-6476-N-01, 24 CFR 983.51(c)]

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.

In accordance with FR-6476-N-01 and 24 CFR 983.51(c), HUD has established an alternative requirement to permit noncompetitive selection of one or more PBV projects with units made exclusively available to HUD-VASH families on the site of a VA facility.

The PHA may also opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to HUD-VASH families if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project.

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.

PHA Policy

The PHA will admit zero HAP families into VASH PBV if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project.

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

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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-VII.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.

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PART IV: MAINSTREAM VOUCHER PROGRAM

20-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.

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.

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20-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.

20-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 the City of Portland / Multnomah County Joint Office of Homeless Services.

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20-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.

PHA Policy

As of October 2024, the PHA follows its MTW Tenant-Based Set Aside Activity in Chapter 4. The Mainstream Voucher set aside is for families with a non-elderly (age 18 - 61) person with disabilities, as defined in 24 CFR 5.403, that are experiencing homelessness and were referred to the PHA from Multnomah County's Coordinated Access system managed by the City of Portland / Multnomah County Joint Office of Homeless Services.

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

PHA Policy

The PHA claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The PHA will offer the following preferences, as described in Chapter 4:

Families with a non-elderly (age 18 - 61) person with disabilities, as defined in 24 CFR 5.403, who is transitioning out of institutional or other segregated settings. The PHA will limit the number of vouchers set aside for this preference to 99. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 99 vouchers. This preference expired December 1, 2022.

Families with a non-elderly (age 18 - 61) person with disabilities, as defined in 24 CFR 5.403, who is experiencing homelessness and was referred to the PHA from Multnomah County's Coordinated Access system managed by the City of Portland / Multnomah County Joint Office of Homeless Services. The PHA will

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limit the number of vouchers set aside for this preference to 130 until December 1, 2022. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 130 vouchers until December 1, 2022. The PHA will limit the number of vouchers set aside for this preference to 229 beginning December 2, 2022. Families will be selected utilizing this preference only upon availability of a mainstream voucher for up to 229 vouchers beginning December 2, 2022.

Payment Standards

As of August 2024, the PHA follows its MTW Broaden Range of Approved Payment Standards Activity to establish separate higher payment standards for Mainstream vouchers.

Additionally, the PHA may set separate higher payment standards for families served with the Mainstream voucher program. For more detail see Chapter 16-II.B.

Voucher Term and Extensions [Notice PIH 2024-30]

PHA PolicyFor Mainstream Vouchers, the PHA will follow policy on initial voucher term and extensions as outlined in Chapter 5-11.E.

20-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.

20-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

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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.

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PART V: NON-ELDERLY DISABLED (NED) VOUCHERS

20-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.

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- **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.

20-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).

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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.

20-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.

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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.

20-V.D. LEASE UP [Notice PIH 2013-19]

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.

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20-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.

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PART VI: STABILITY VOUCHERS

20-VI.A. PROGRAM OVERVIEW [Notice PIH 2022-24: Stability Voucher Program]

The Stability Voucher initiative makes Housing Choice Voucher (HCV) assistance available to Public Housing Agencies (PHAs) in partnership with local Continuum's of Care and/or Victim Service Providers to assist households experiencing or at risk of homelessness, those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, human trafficking, and veterans and families that include a veteran family member that meets one of the proceeding criteria.

20-VI.B. PARTNERING AGENCIES

Continuum of Care (CoC)

PHAs that accept an allocation of Stability Vouchers are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of Stability Vouchers.

PHA Policy

The PHA has entered into an MOU with OR-501 Portland/Gresham/Multnomah County Continuum of Care. The City of Portland / Multnomah County Joint Office of Homeless Services is also party to the MOU as the lead agency for the Continuum of Care. Native American Rehabilitation Association of the Northwest, Inc. is also party to the MOU as the CoC funded service provider who will make available supportive services to Stability Voucher participants.

20-VI.C. REFERRALS

CoC Referrals

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking Stability Voucher assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for Stability Voucher assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for Stability Vouchers. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for Stability Voucher assistance.

PHA Policy

As the lead agency of the Continuum of Care, the City of Portland / Multnomah County Joint Office of Homeless Services (JOHS) will make referrals of eligible families to the PHA. JOHS will certify that the Stability Voucher applicants they refer to the PHA meet at least one of the four Stability Voucher eligibility criteria. JOHS will prioritize individuals and families experiencing unsheltered homelessness. The PHA will maintain a copy of the referral and certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork.

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The JOHS will make referrals to the PHA on a schedule agreed upon with PHA. Referrals will be accompanied with a completed release form for each adult family member, and a written certification for each referral indicating they are Stability Voucher-eligible.

Other Partner Agency Referrals

The PHA must take direct referrals from outside the CoC Coordinated Entry Process if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for Stability Voucher assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), the PHA must enter into a formal partnership with another entity, such as another homeless services provider and/or victim services provider to receive referrals.

20-VI.D. HCV WAITING LIST

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to the Stability Voucher program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of Stability Vouchers by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24 (HA).

PHA Policy

The PHA will post information about the Stability Voucher program for families on the PHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which stability vouchers are limited
- Clearly state that the availability of these stability vouchers is managed through a direct referral process
- Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for stability voucher assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

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20-VI.E. STABILITY VOUCHER WAITING LIST

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the Stability Voucher program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the Stability Vouchers available, the PHA must maintain a separate waiting list for Stability Voucher referrals.

Further, the Stability Voucher waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the Stability Voucher waiting list.

20-VI.F. PREFERENCES

HCV Waiting List Preferences

Local preferences established by the PHA for HCV admissions as described in Chapter 4 do not apply to Stability Vouchers.

Stability Voucher Waiting List Preferences

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for Stability Vouchers. The PHA may, however, choose to not establish any local preferences for the Stability Voucher waiting list.

PHA Policy

No local preferences have been established for the Stability Voucher waiting list.

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20-VI.G. FAMILY ELIGIBILITY OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2022-24 (HA) and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the Stability Voucher program and outlined below.

20-VI.H. REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for a Stability Voucher, an individual or family must meet one of four eligibility criteria:

- Individuals or families who are currently experiencing homelessness as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2022-24) or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Veterans and families that include a veteran that meet one of the preceding criteria.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for Stability Voucher assistance. The PHA must retain this documentation as part of the family's file.

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20-VI.I. PHA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the Stability Voucher applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for a Stability Voucher. Instead, the Stability Voucher alternative requirement listed in this section will apply to all Stability Voucher applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2022-24 (HA) and in this chapter, however, apply only when screening the individual or family for eligibility for a Stability Voucher. When adding a family member after the family has been placed under a HAP contract with Stability Voucher assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the Stability Voucher program, mandatory denials for Stability Voucher applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited Stability Voucher grounds for denial of admission first.

> PHA Policy
>
> While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited Stability Voucher grounds for denial of admission as part of the notice of denial that will be mailed to the family.

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Permissive Denials

Notice PIH 2022-24 (HA) lists permissive prohibitions for which the PHA may, but is not required to, deny admission to Stability Voucher families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for Stability Voucher families.

If the PHA intends to establish permissive prohibition policies for Stability Voucher applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHA Policy

The PHA will not adopt any permissive prohibitions for the Stability Voucher program.

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20-VI.J. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the Stability Voucher program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to Stability Voucher families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

PHA Policy

PHA may consider self-certification the highest form of income verification at admission.

Applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. Original documents are preferred. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

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

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, 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.

If the PHA later determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

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Recently Conducted Income Determinations

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

PHA Policy

The PHA will not accept income calculations and verifications from third-party providers.

On a case-by case basis, the PHA may accept income calculations and verifications from an examination that the PHA conducted on behalf of the family for another subsidized housing program, provided they meet the criteria outlined above. Tracking and supervisory approval will be required.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

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20-VI.K. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the Stability Voucher program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the Stability program. Instead, PHAs may adopt policies to admit Stability Voucher applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will not admit Stability Voucher applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination.

20-VI.L. AGE AND DISABILITY VERIFICATION

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will not accept self-certification of date of birth and disability status if a higher form of verification is not immediately available.

20-VI.M. INCOME TARGETING

The PHA must determine income eligibility for Stability Voucher families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for Stability Voucher families. The PHA may still choose to include the admission of extremely low-income Stability Voucher families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

The PHA will not include the admission of extremely low-income Stability Voucher families in its income targeting numbers for the fiscal year in which these families are admitted.

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20-VI.N. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, Stability 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 Stability 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.

20-VI.O. INITIAL LEASE TERM

Unlike in the standard the HCV program, Stability Voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

20-VI.P. HQS PRE-INSPECTIONS

To expedite the leasing process, PHAs may pre-inspect available units that Stability Voucher families may be interested in leasing in order to maintain a pool of eligible units.

PHA Policy

The PHA will not conduct pre-inspections available units. The PHA will make every effort to fast track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

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20-VI.Q. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to Stability Vouchers. Exceptions are addressed below.

Nonresident Applicants

Under the Stability Voucher program, 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, regardless of PHA policy in Section 10-II.B.

Billing and Absorption

A receiving PHA cannot refuse to assist an incoming Stability Voucher family, regardless of whether the PHA administers Stability Vouchers under its own ACC.

- If the Stability Voucher family moves under portability to another PHA that administers Stability Vouchers under its own ACC:
  - The receiving PHA may only absorb the incoming Stability Voucher family with a Stability Voucher (assuming it has a Stability Voucher available to do so).
  - If the PHA does not have a Stability Voucher available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with Stability Voucher assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's Stability Voucher assistance, the administration of the Stability Voucher is in accordance with the receiving PHA's Stability Voucher policies.
- If the Stability Voucher family moves under portability to another PHA that does not administer Stability Voucher under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

<u>PHA Policy</u>

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for Stability Voucher families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with policies in Chapter 2.

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20-VI.R. PAYMENT STANDARDS

Payment Standard Schedule

For the Stability Voucher program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for Stability Vouchers. Lower Stability Voucher payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the Stability Voucher payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate Stability Voucher payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for Stability Vouchers, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

  The PHA must notify HUD if it establishes a Stability Voucher exception payment standard based on the SAFMR.

  <u>PHA Policy</u>

  The PHA will establish separate higher payment standards for Stability Vouchers. The Stability Voucher payment standards will be set at 120 percent of the FMR.

  At no time will the Stability Voucher payment standards fall below the HCV payment standards. If the PHA increases the HCV payment standard, the PHA will also increase the Stability Voucher payment standard if it would be otherwise lower than the new regular HCV payment standard.

Rent Reasonableness

All rent reasonableness requirements apply to Stability Voucher units, regardless of whether the PHA has established an alternative or exception Stability Voucher payment standard.

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Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to Stability Vouchers. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

PHA Policy

The PHA will not establish an alternative policy for increases in payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to Stability Vouchers.

20-VI.S. PROJECT-BASED UNITS

All tenant-based Stability Voucher awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed. No additional HUD Headquarters approvals are required for project basing Stability Vouchers beyond the normal process. All PBV requirements in 24 CFR part 983 apply for SVs except where waived as described below. The HCV regulations at 24 CFR § 983.251(c)(1) require PHAs to select families for project-based units from its HCV waiting list (or PBV waiting list, if applicable). HUD is waiving this requirement and establishing an alternative requirement that PHAs receive Stability Voucher referrals from CoC partners for vouchers as well as project-based assistance.

20-VI.T. TURNOVER

Upon turnover, Stability Vouchers must continue to remain available for families experiencing or at-risk of homelessness, those fleeing or attempting to flee domestic violence dating violence, sexual assault, or stalking, or human trafficking, and veterans and families that include a veteran family member that meet one of the proceeding criteria.

PHA Policy

Upon turnover, the PHA will take referrals from the Continuum of Care for eligible individuals and families as described in section 20-VI.C.

20-VI.U. REPORTING

PHAs awarded SVs under this notice must maintain a special program code for Stability Voucher participants in line 2n of the Family Report (form HUD-50058) or line 2p of the MTW Family Report (form HUD-50058), as applicable. The special program code is "SV." PHAs must also properly record the date the PHA issues the voucher to the eligible household in line 2a of the 50058.

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RESOLUTIONS

homeforward

MEMORANDUM

To: Board of Commissioners

Date: November 19, 2024

From: Jonathan Trutt
Director of Development
503.802.8507

Patrick Rhea
Sr. Project Manager
503.802.8311

Subject: Authorize Early Learning Center Tenant Improvement Amendment to Killingsworth Housing's Construction Manager/General Contractor (CM/GC) Contract with O'Neill/Walsh Community Builders Resolution 24-11-02

The Board of Commissioners is requested to authorize:

1) A $1,876,803 amendment to the existing Construction Manager/General Contractor (CM/GC) contract between Home Forward and O'Neill/Walsh Community Builders (OWCB) for PCC-Killingsworth Housing to construct the Early Learning Center (ELC) for the Native American Youth and Family Center (NAYA).

2) Expenditure of a $125,000 owner-controlled construction contingency during the course of the ELC construction.

This action supports the 2023-2026 Strategic Plan Goal to lead within the housing stability ecosystem and use our developmental expertise to advance innovative solutions that expand supply and address community needs.

BACKGROUND

Home Forward is currently building PCC-Killingsworth, an 84-unit affordable housing development that also includes a three-classroom ELC that will be operated by the Native American Youth and Family Center (NAYA). PCC-Killingsworth is located at the intersection of NE Killingsworth Street and NE 42nd Avenue, on land owned by Portland Community College (PCC). It is adjacent to PCC's new 42nd Avenue Opportunity Center, which houses the college's workforce development programming.

Home Forward and NAYA executed a series of documents in February 2024 which outlined guidelines for funding, designing, constructing and operating the Early Learning Center. These documents state that:

- Home Forward is responsible for constructing the ELC using O'Neill/Walsh Community Builders (OWCB), the general contractor currently constructing PCC-Killingsworth's affordable housing. This arrangement streamlines the ELC's construction by utilizing a general contractor already on-site.
- NAYA is responsible for the covering the cost of the ELC's conversion from unfinished spaces into early learning classrooms.

When completed, the ELC space will be approximately 4,200 square feet. The space will comprise three classrooms, a kitchen, one office and a small lobby area. Funding for the ELC will come from a combination of Low-Income Housing Tax Credits (LIHTC) and American Rescue Plan Act (ARPA).

The board authorized $34,761,551 of total construction expenditures for PCC-Killingsworth via Resolution 2024-01-03. This resolution did not include the construction costs or contingency associated with the ELC's completion because it had not yet been fully designed or bid.

OVERVIEW

The design for the Early Learning Center is complete and received a building permit in late October. Constructing the residential portion of the building commenced in February of this year and is approximately 50% complete.

In August 2024, OWCB received competitive bids from subcontractors and suppliers and developed a $1,876,803 million change order to build the ELC. OWCB estimates that Under-utilized Business Enterprises (UBEs) will complete approximately 40% of the value of this work keeping the overall value of UBEs for the project over 34%. Construction will begin in early December. ELC completion is scheduled for July 25, 2025, which will coincide with the completion of PCC-Killingsworth's affordable housing.

The attached resolution authorizes construction expenditures to construct the ELC and a construction contingency reserve controlled by Home Forward. Home Forward will spend this contingency through future contract amendments to address changes to the scope of work, unforeseen conditions, and building upgrades.

ELC	$	1,876,803
Owner's contingency	$	125,000
Total, this authorization	**$**	**2,001,803**

This proposed increase to PCC-Killingsworth's total construction cost amount was anticipated at the beginning of construction. It is included in the current development budget.

CONCLUSION

This resolution will authorize an additional $2,001,803 of construction expenditure on PCC-Killingsworth, which will enable the completion of NAYA's Early Learning Center. It will bring the total amount of PCC-Killingsworth construction expenditure authorized by the Board to $36,763,354.

The Real Estate and Development (READ) Committee of Home Forward's Board reviewed a draft of this resolution at its meeting on November 1, 2024.

RESOLUTION 24-11-02

RESOLUTION 24-11-02 AUTHORIZES THE CHIEF EXECUTIVE OFFICER TO EXECUTE AN AMENDMENT WITH O'NEILL WALSH COMMUNITY BUILDERS TO CONSTRUCT THE NAYA EARLY LEARNING CENTER WITHIN THE PCC-KILLINGSWORTH BUILDING, INCLUDING CONTINGENCY FOR CONSTRUCTION CHANGE ORDERS

WHEREAS, Home Forward, a housing authority and a public body corporate and politic of the State of Oregon, seeks to encourage the provision of long-term housing for persons with low income residing in Multnomah County, Oregon; and

WHEREAS, Home Forward staff managed a competitive procurement process via O'Neill Walsh Community Builders (OWCB) to construct the Early Learning Center (ELC) within Home Forward's PCC-Killingsworth building; and

WHEREAS, OWCB has received competitive bids from subcontractors and established a Contract Amendment Price of $1,876,803 to complete the ELC;

WHEREAS, Home Forward has established an Owner's contingency of $125,000 for the ELC;

WHEREAS, Home Forward has previous authorized $34,761,551 of construction expenditures for PCC-Killingsworth;

WHEREAS, Home Forward contracting rules require approval of the Home Forward Board of Commissioners for contract amendments in excess of $500,000;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Home Forward authorizes and directs the Chief Executive Officer or her designee to execute an amendment with OWCB for ELC construction services in the amount of $1,876,803;

BE IT FURTHER RESOLVED, that the Board of Commissioners of Home Forward hereby authorizes the Chief Executive Officer or her designee to execute amendments to the contract with OWCB to spend the Owner's contingency in the amount of $125,000 towards the construction of the ELC;

BE IT FURTHER RESOLVED, that the total amount of construction expenditure authorized for PCC-Killingsworth is now $36,763,354.

ADOPTED: NOVEMBER 19, 2024

Attest:	Home Forward:
_____	_____
Ivory N. Mathews, Secretary	Matthew Gebhardt, Chair

STAFF REPORTS

Procurement & Contracts Department
MONTHLY CONTRACT REPORT
Contracts Approved 09/01/24 - 10/31/24

PUBLIC IMPROVEMENT
(CONSTRUCTION & MAINTENANCE SERVICES)

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
C3461	0	Prime Legacy	$49,627.10	Gallagher plaza build back unit 507, 407, 307, 207	Property Mgmt	10/1/2024	12/31/2024
C3474	0	Prime Legacy	$13,558.00	Restoration repair at Eliot Square	Property Mgmt	10/18/2024	11/3/2024
Subtotal			**$63,185.10**				**2**

GOODS & SERVICES

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
C3418	0	MJ General Contracting	$3,600.00	Drywall repair at Clark Center	Asset Mgmt	9/3/2024	9/15/2024
C3414	0	SunBelt Controls	$129,565.00	Install DDC Controls at NMW	IFS	9/6/2024	6/30/2025
C3452	0	Pacific Landscape Services Inc.	$14,868.00	Landscaping at Dekum	Property Mgmt	9/17/2024	9/8/2025
C3419	0	Quadient, Inc	$18,930.00	Parcel lockers at Dekum Community Building and support and maintenance	DCR	9/25/2024	9/23/2025
C3462	0	Metro Saw Cutting LLC	$21,825.00	Cut and remove concrete at Carlton Court	Property Mgmt	10/16/2024	11/30/2024
C3478	0	NW Enforcement	$14,668.00	Security services at Hattie Redmond	Property Mgmt	10/22/2024	2/28/2024
C3459	0	NQ Industries	$20,800.00	Metal container boxes	IFS	10/23/2024	12/30/2024
Subtotal			**$224,256.00**				**7**

PERSONAL SERVICE CONTRACTS

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
C3448	0	QEDLAB Qualified Envelope Diagnostics, Inc.	$10,150.00	Testing of windows for water intrusion at the Troutdale project.	DCR	9/3/2024	12/15/2025

C3271	0	Gordon & Rees LLP	$50,000.00	Legal Representation of Home Forward	Executive	9/5/2024	10/31/2024
C3405	0	Cascadia Health	$100,631.00	Case management and mental health services for participants in the Shelter Plus Care (SPC) Program; Rule 46-0340	Homeless Initiatives	9/6/2024	3/31/2024
C3406	0	Cascadia Health	$112,841.00	Rent assistance for participants in the Shelter Plus Care (SPC) Program; Rule 46-0340	Homeless Initiatives	9/6/2024	3/31/2024
C3421	0	Eliminate Girl Hate	$1,200.00	Career development for HF employees	Talent & Organizational Development	9/6/2024	1/31/2025
C3444	0	Boly-Welch	$5,000.00	Update Employee Handbook	HR	9/9/2024	8/22/2025
C3451	0	Idea Language Services LLC	$23,774.29	Translating SharePoint and accompanying forms	T&OD	9/9/2024	11/26/2024
C3427	0	Human Solutions - Our Just Future	$822,824.00	STRA	Rent Assistance	9/16/2024	6/30/2029
C3430	0	Janus Youth Program	$94,985.00	STRA	Rent Assistance	9/16/2024	6/30/2029
C3431	0	JOIN	$775,318.00	STRA	Rent Assistance	9/16/2024	6/30/2029
C3426	0	El Programa Hispano Catolico	$746,160.00	STRA	Rent Assistance	9/17/2024	6/30/2029
C3432	0	Latino Network	$681,718.00	STRA	Rent Assistance	9/17/2024	6/30/2029
C3438	0	Outside In	$76,553.00	STRA	Rent Assistance	9/17/2024	6/30/2029
C3439	0	Portland Homeless Family Solutions (Path Home)	$744,302.00	STRA	Rent Assistance	9/17/2024	6/30/2029
C3450	0	Family Essentials	$349,325.00	STRA	Homeless Initiatives	9/17/2024	6/30/2029
C3434	0	NARA	$487,019.00	STRA	Rent Assistance	9/18/2024	6/30/2029
C3441	0	Transition Projects	$149,720.00	STRA	Rent Assistance	9/18/2024	6/30/2029
C3442	0	Urban League of Portland	$280,268.00	STRA	Rent Assistance	9/18/2024	6/30/2029
C3447	0	Northwest Inspection Services/ Northwest Property Inspections	$5,500.00	Inspection of building Home forward is considering for purchase - 1450 SW Jefferson st	DCR	9/19/2024	12/31/2024
C3454	0	WordBIrd LLC	$15,000.00	Procedure writing and revision for PM dept	Property Mgmt	9/19/2024	9/30/2026
C3455	0	Emerio Design, LLC	$10,000.00	Survey for property Home Forward is considering purchasing	DCR	9/19/2024	4/30/2025
C3457	0	QED Lab	$20,000.00	Window testing for goose hollow lofts	DCR	9/23/2024	4/30/2025
C3458	0	Le Chevallier Strategies	$50,000.00	Event planning and media coordination for ground breakings and grand openings	Executive	9/30/2024	10/1/2025

C3460	0	Evren Northwest	$5,000.00	Phase I ESA for Goose Hollow Lofts	DCR	9/30/2024	4/30/2025
C3465	0	Motus Recruiting & Staffing Inc.	$9,500.00	External Investigation Services	HR	10/1/2024	12/15/2024
C3468	0	Portland Foot Care Clinic	$8,100.00	Monthly foot care clinics for 10 residents	Community Services	10/2/2024	12/31/2024
C3469	0	Colliers International Valuation & Advisory Services, LLC	$5,000.00	Appraisal for property Home Forward is considering purchasing Goose Hollow Lofts; appraisal is a funder requirement	DCR	10/2/2024	4/30/2025
C3463	0	Robert Half International	$50,000.00	Temp position: Administrative Analyst	Executive	10/4/2024	12/31/2024
C3464	0	Robert Half International	$123,760.00	Temp position: Senior Project Manager	Executive	10/4/2024	4/8/2025
C3473	0	Elevator Consulting Services	$5,500.00	Elevator Consultant Services for Gretchen Kafoury Commons	DCR	10/18/2024	12/31/2025
C3475	0	Life After Patriarchy LLC	$15,113.50	Facilitate Intensive Learning Group	Executive	10/18/2024	7/31/2025
C3476	0	Cuenta Conmigo LLC	$36,200.00	Facilitate Intensive Learning Group	Executive	10/18/2024	7/31/2025
C3477	0	Wholesome Health	$2,000.00	Menu review and certification for CHSP	Community Services	10/22/2024	12/31/2024
C3482	0	Clair Company	$512.00	Special Testing Inspections at Peter Paulson Apts. envelope rehabilitation project.	DCR	10/23/2024	9/30/2025
C3483	0	The Bookin Group	$9,300.00	Consulting for Land Use Replat of Gresham Civic Parcel	DCR	10/23/2024	5/1/2025
C3481	0	Clair Company	$750.00	Special Testing inspections at Gretchen Kafoury Commons envelope rehabilitation project.	DCR	10/25/2024	9/30/2025
C3487	0	Environmental Works	$3,000.00	Post-rehab radon survey of Grace Peck Terrace	DCR	10/25/2024	12/31/2024
C3489	0	Life After Patriarchy LLC	$1,800.00	Equity Coaching	IFS	10/30/2024	4/30/2025
C3490	0	Northwest Pilot Project	$66,077.00	JOHS funded supportive services for participants in HF's SPC program; Rule 46-0340	Homeless Initiatives	10/31/2024	6/30/2025
Subtotal			**$5,953,900.79**				**39**

PROFESSIONAL SERVICE CONTRACTS (A&E)

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
C3453	0	Peter Meijer Architect, PC	$11,000.00	Design and permit process for install of gates for Fairfield PSH Limited Partnership	DCR	9/16/2024	3/31/2025
C3456	0	KASA Architects	$23,160.00	Design services for Cesar to improve property for PSH services	DCR	10/9/2024	12/31/2025

Total	**$34,160.00**		**2**

AMENDMENTS TO EXISTING CONTRACTS

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
C2868	19	Walsh Construction Co.	$281,468.61	Dekum CO #15	DCR	9/3/2024	9/30/2025
C3208	1	West Coast Landscape LLC	$25,326.00	Landscaping at Humboldt; amended to extend contract	Property Management	9/3/2024	8/31/2025
C3210	1	West Coast Landscape LLC	$6,630.00	Landscaping at Sellwood; amended to extend contract	Property Management	9/3/2024	9/6/2025
C3295	1	Pono Security	$13,230.00	Security at Sellwood; amended to add scope	Property Management	9/9/2024	3/31/2025
C3213	1	West Coast Landscape LLC	$6,552.00	Landscaping at Gallagher; amended to extend contract	Property Management	9/10/2024	8/31/2025
C3298	1	NW Enforcement	$55,500.00	Security services at Tukwila 8pm-8am; amended to extend contract	Community Services	9/10/2024	11/30/2024
C3039	5	Central City Concern	$332,060.00	Behavioral health case management services at BCC; amended to extend contract	Community Services	9/17/2024	6/30/2025
C3060	1	Nancy Hochman	$-	Hearings Officer for Home Forward; amendment to extend contract	Rent Assistance	9/23/2024	9/30/2027
C2976	19	Walsh Construction Co.	($8,139.00)	Grace Peck CO #14 deductive	DCR	9/24/2024	12/31/2024
C2271	16	Colas Construction	$230,680.73	Powell CO #16	DCR	10/1/2024	12/31/2024
C2857	9	Bremik Construction	$61,512.00	Adding to scope of work for additional drains in the unit bathrooms on floors 2 and 3 at the Troutdale Project.	DCR	10/1/2024	12/29/2025
C3168	1	Carbonell Cleaning Solutions	$10,548.50	Landscaping at Eliot Square and Maple Mallory; amended to extend contract	Property Management	10/2/2024	10/30/2024
C3304	2	Baldwin General Contracting Inc	$31,198.97	Sequoia square envelope rehab PCO #5 Add Window Check Rails, Tempering, FAV's, ADA Windows & Material Cost Increase	DCR	10/2/2024	10/31/2025
C2878	1	Carbonell Cleaning Solutions	$-	On-Call Maintenance Repair Services; amended to extend contract	Property Management	10/9/2024	11/30/2025
C3239	1	Carbonell Cleaning Solutions	$9,828.00	Landscaping at Medallion & Williams; amended to extend contract	Property Management	10/9/2024	10/8/2025
C2880	2	Allied Systems NW	$-	On-Call Maintenance Repair Services; amended to extend contract	Property Management	10/16/2024	11/30/2025
C2919	21	Walsh Construction Co.	$392,480.00	Fairfield Design-Build CO #14	DCR	10/18/2024	12/31/2025
C3271	1	Gordon & Rees LLP	$-	Legal Representation of Home Forward; amended to add time	Executive	10/18/2024	12/31/2024

C3368	1	Rosecity Builders	$-	On-call painting services; amended to update rates	IFS	10/21/2024	5/31/2027
C2418	6	Forensic Building Consultants	$4,500.00	Sequoia square Additional Services Provided Permitting Plans and Design Details Temporary stairs and landing plan code updates	DCR	10/22/2024	9/2/2025
C3373	1	immigrant Refugee Community Organization (IRCO)	$121,303.50	Permanent Supportive Housing support services for 20 units at The Ellington; amended to expand scope and add funds	Community Services	10/23/2024	6/30/2025
C3363	1	QEDLAB Qualified Envelope Diagnostics, Inc.	$-	Peter Paulson window testing extending contract date	DCR	10/24/2024	8/30/2025
C2964	9	Bora Architecture Inc	$74,833.00	Added services for the Peaceful Villa project: Excessive permitting comments, three code appeals, extended time line June - October, review of GC clarifications and exclusions and engineering	DCR	10/28/2024	3/31/2027
C3233	2	Epic Land Solutions	$-	Resident Relocation at Peaceful Villa; amended to extend contract	DCR	10/28/2024	1/31/2025
C3314	1	Hollywood Senior Center DBA The Community for Positive Aging	$10,000.00	Resident relocation assistance for the Fairfield remodel; amended to add funds	DCR	10/28/2024	2/28/2025
Subtotal			**$1,659,512.31**				**25**

OTHER AGREEMENTS (Revenue contracts, 3rd Party contracts, MOU's, IGA's)

Contract #	Amend #	Contractor	Contract Amount	Description	Dept.	Execution Date	Expiration Date
Subtotal			**$0.00**				**0**
Total			**$7,935,014.20**				**75**

Procurement & Contracts Department
FUTURE FORMAL PROCUREMENTS
Look Ahead - November 2024

Estimated Contract Amount	Description	Dept.	Solicitation Period
TBD	Security at Tukwila Springs	Community Services	In Progress
$42 million	Group 8	DCR	In Progress
$1.650 million	A&E for N. Maryland	DCR	Spring 2025
$13.2 million	CM/GC for N. Maryland	DCR	Spring 2025
TBD	Townhouse Terrace Construction Project	DCR	Late 2025
TBD	Slavin Court Construction Project	DCR	Late 2025
$1.5 million	CHSP Housekeeping & Personal Care	Community Services	TBD
$1 million	Rosenbaum Plaza Plumbing Repairs Phase 2/3	DCR	TBD