

ADMINISTRATIVE PLAN FOR THE SECTION 8



HOUSING CHOICE VOUCHER PROGRAM



THE HOUSING AUTHORITY OF THE COUNTY OF LEBANON
P.O. Box 420
LEBANON, PENNSYLVANIA 17042

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 rental assistance programs are federally funded and administered for the County of Lebanon by the Housing Authority of the County of Lebanon through its Section 8 housing office.

Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the PHA is the County of Lebanon Pennsylvania.

A. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan. The Housing Choice Voucher Program was implemented as of 10/1/99.

B. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(22)]

All expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes will be approved by the Authority's Board of Commissioners and made in accordance with the approved budget.

C. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the PHA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in, or in conflict with, this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law.

D. TERMINOLOGY

The Housing Authority of the County of Lebanon is referred to as "PHA" or "Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Voucher Choice program refers to the merged program effective as of 10/01/99.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"Failure to Provide" refers to requirements listed under "Family Obligation" in the chapter entitled "Denial or Termination of Assistance".

See Glossary for other terminology.

E. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability, sexual orientation or gender identity.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request.

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all

families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

Except as otherwise provided in Federal Regulations, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

The Lebanon County Housing Authority office(s) are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TTD/TDY telephone service.

F. REASONABLE ACCOMMODATIONS POLICY [24 CFR 700.245(c)(3)]

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the PHA will treat a person differently than anyone else. The PHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on PHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition: a physical or mental impairment that substantially limits one or more of the major life activities of an individual; A record of such impairment; or being regarded as having such an impairment

Note: The above definition is not be used for purposes of determining deductions from income.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled

for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the persons status as a qualified person with a disability is confirmed, the PHA will require that a professional third party competent to make the assessment, provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the PHA.

The PHA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

Verification of Disability

The PHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

Applying for Admission

All persons who wish to apply for any of the PHA's programs must submit a pre-application in electronic format.

To provide specific accommodation to persons with disabilities, upon request, Authority staff will provide assistance to the applicant in completing the electronic application..

The full application is completed at the eligibility appointment. Applicants will be interviewed by PHA staff to enter the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time.

The full application will also include questions asking all applications whether reasonable accommodations are necessary.

G. TRANSLATION OF DOCUMENTS

In determining whether it is feasible to provide translation of documents written in English into other languages, the PHA will consider the following factors:

Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.

Estimated cost to PHA per client of translation of English written documents into the other language.

The availability of local organizations to provide translation services to non English speaking families.

Availability of bi-lingual staff to provide translation for non-English speaking families.

H. MANAGEMENT ASSESSMENT OBJECTIVES

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators: selection from the waiting list; reasonable rent; determination of adjusted income; utility allowance schedule; HQS quality control inspections; HQS enforcement; expanding housing opportunities; FMR/exception rent & payment standards; annual re-examinations; correct tenant rent calculations; pre-contract HQS inspections; annual HQS inspections; lease-up; and the bonus indicator de-concentration

Supervisory quality control reviews will be performed by a PHA Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors: selection from the waiting list; rent reasonableness; determination of adjusted income; HQS enforcement and HQS quality control.

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail. The minimum sample size to be reviewed will relate directly to each factor.

I. RECORDS FOR MONITORING PHA PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the PHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the PHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

In addition to the required SEMAP documentation, supervisory staff will audit the following functions: not less than 5% of reexaminations; not less than 5% of new applications; and not less than 5% of claims processed.

J. PRIVACY RIGHTS [24 CFR 982.551]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/PHA will release family information.

The PHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Executive Director or his designee.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

PHA staff will not discuss family information contained in files 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.

K. FAMILY OUTREACH [24 CFR 982.153(b)(1)]

The PHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the PHA's waiting list is open, the PHA will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in Spanish.

To reach persons who cannot read the newspapers, the PHA will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. The PHA will also utilize public service announcements.

The PHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

L. OWNER OUTREACH [24 CFR 982.54(d)(5), 982.153(b)(1)]

The PHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The PHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

The PHA maintains a list of units available for the Section 8 Program and updates this list as needed. When listings from owners are received, they will be compiled by the PHA staff by bedroom size.

The PHA will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low-income households. The lists of units will be provided on request and provided at briefings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The PHA has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The PHA encourages program participation by owners of units located outside areas of poverty or minority concentration. The PHA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the PHA's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities

Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

Chapter 2

ELIGIBILITY FOR ADMISSION

INTRODUCTION

This Chapter defines both HUD and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(B)]

The PHA accepts applications only from families whose head or spouse is at least 18 years of age.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

The HUD eligibility criteria are:

An applicant must be a "family"

An applicant must be within the appropriate Income Limits

An applicant must furnish Social Security Numbers for all family members.

An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required. At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the PHA may provide any financial assistance.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher, unless the PHA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201]

The applicant must qualify as a Family. A Family may be a single person or a group of persons as defined below.

A “family” includes a family with a child or children. A group of persons consisting of two or more elderly persons (an individual age 62 years or older) or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The PHA determines if any other group of persons qualifies as a “family”.

A single person family may be: an elderly person; a displaced person; a person with a disability (individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence); or any other single person

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A family also includes:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs.

Two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides is a family.

Head of Household

The head of household is the **adult** member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-in Attendants

A Family may include a live-in aide provided that such live-in aide: is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities; is not obligated for the support of the person(s); and would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members: income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits; live-in aides are not subject to Non-Citizen Rule requirements; and live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

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

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.

Split Households Prior to Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the PHA will make the decision taking into consideration the following factors: which family member applied as head of household; which family unit retains the children or any disabled or elderly members; restrictions that were in place at the time the family applied; the role of domestic violence in the split; and recommendations of social service agencies or qualified professionals such as children's protective services.

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

Multiple Families in the Same Household

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

Joint Custody of Children

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

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must: have an Annual Income at the time of admission that does not exceed the very low income limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low income category, which is a family whose income does not exceed 50 percent of the area median income. The PHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

To be income eligible the family may be under the low-income limit in any of the following categories: [24 CFR 982.201(b)]

A very low income family.

A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.

A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

To determine if the family is income-eligible, the PHA compares the Annual Income of the family to the applicable income limit for the family's size. Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

Applicants and participants are required to provide verification of Social Security Numbers for **all** family members (subject to the exceptions listed below) prior to admission. This requirement also applies to persons joining the family after admission to the program.

The following individuals are exempt from the requirement to provide Social Security Number verification:

1. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
2. Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. The PHA may confirm HUD's validation of the participant's SSN by viewing the household's Summary Report or the Identity Verification Report in the EIV system.
3. Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues ever if the individual moves to a new assisted unit.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance **for the entire family**.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither, may elect not to contend their status. Eligible immigrants are

persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations. Not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

Verification of Status Before Admission

The PHA will not provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

The PHA will apply all applicable HUD eligibility criteria to determine if an applicant may be admitted to the Section 8 program. In addition, an applicant may be denied admission if during the past two years the applicant:

Has previously been found ineligible for or terminated from the program because of the failure to supply information or documentation required by program regulations (including the failure or refusal to sign required documents).

Has failed to respond to written requests(s) for required information or written requests to declare their continued interest in the program.

Has failed to supply a current address or telephone number which resulted in the PHA'S inability to contact the applicant.

The applicant will be denied admission if during the past five years the applicant:

Has violated any family obligation during a previous participation in the Section 8 program. The PHA may make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

Deliberately misrepresented the information on which eligibility or tenant rent is

established (the PHA may also refer the applicant's record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

Has engaged (or any adult household members have engaged) in any of the criminal behaviors referenced in the section on One-Strike policy in the "Denial or Termination of Assistance" chapter.

The applicant will be denied admission if:

The applicant owes an outstanding debt to the PHA, another PHA or other subsidized housing provider as a result of prior participation in any federal housing program. (The applicant will be considered eligible for purposes of this requirement if the applicant is in good standing regarding a current payment agreement for such debt)

The PHA will also take into consideration any of the other criteria for admission described in the "Denial or Termination of Assistance" chapter.

G. TENANT SCREENING [24 CFR 982.307)]

The PHA will not screen family behavior or suitability for tenancy. The PHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. Such owner screening should include such factors as: 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.

The PHA will advise families how to file a complaint if they have been discriminated against by an owner. The PHA will advise the family to make a Fair Housing complaint. The PHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between issuance of a voucher and lease up and that may affect the family's eligibility or share of the rental payment shall be processed as follows:

1. The family may be admitted based on information obtained at the time of voucher issuance so long as no more than 90 days have passed since the voucher was issued.

2. Any changes in family circumstances occurring after voucher issuance shall be reflected by processing an interim recertification effective the first day of the month following the month of initial program participation.

3. The family shall have the option of requesting a reevaluation of family circumstances after voucher issuance, but prior to admission. However, the family must be informed that such reevaluation may lead to a determination of ineligibility and withdrawal of the voucher.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admission to the program may not be based on; where the family lives before admission to the program; discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock; discrimination because a family includes children; whether a family decides to participate in a family self sufficiency program; or other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of application taking is to permit the PHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of the PHA's programs must complete an application form when application taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). This first phase results in the family's placement on the waiting list. The pre-application will be electronically dated, time-stamped, and maintained until such time as it is needed for processing.

The second phase is the "final determination of eligibility" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The PHA will utilize a preliminary application form. The information is to be filled out by the applicant whenever possible. The application form is in electronic format and is available through the internet. Internet equipped computers are available at the Authority office for use by applicants at no charge. Staff members will provide assistance to any applicant who encounters difficulty completing the electronic application. In addition as an accommodation for persons with disabilities, a staff person may complete the application over the telephone.

The purpose of the pre-application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Ineligible families will not be placed on the waiting list.

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

If the family is determined to be ineligible based on the information provided in the pre-application, the PHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation.

C. COMPLETION OF A FULL APPLICATION

When a family appears to be within three (3) months of being offered a voucher, the family will be invited to participate in a full application interview with a PHA representative. During this interview the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The PHA interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all information is complete and accurate.

It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review, with the Section 8 Supervisor. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies document or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

The full application will be communicated as requested as an accommodation to a person with a disability.

Requirement to Attend Interview

The head and spouse or co-head of household are both required to attend the interview. If the head of household cannot attend the interview, the spouse or co-head may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 10 business days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the PHA will reject the application.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than 10 business days from the original appointment date.

Reasonable accommodation will be made for persons with a disability who requires an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

All adult members must sign the HUD Form 9886, Release of Information, the application form and all supplemental forms required by the PHA, the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information that is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the PHA.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information in writing. The family will be given 10 business days to supply the information.

If the information is not supplied in this time period, the PHA will provide the family a notification of denial for assistance.

D. EIV SYSTEM

For each prospective participant, the PHA shall at the time of the eligibility interview print and maintain on file a copy of the EIV Existing Tenant Search results.

If the applicant or members of applicant's household are identified by EIV as currently being assisted at or owes a debt to, another Multifamily Housing or Public and Indian Housing (PIH) location, the PHA shall discuss these findings with the appropriate member(s) of applicant household and provide the opportunity to explain the circumstances relative to being assisted at, or owing a debt to, another housing provider.

The PHA shall follow up with the respective housing provider to confirm the applicant's program participation status or debt owed before admission. If necessary the PHA will coordinate move-in/move-out dates with the other housing provided at the other location.

The PHA shall retain Existing Tenant Search results, as well as any related additional documentation, with the application.

E. VERIFICATION

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 120 days old at the time a voucher is issued

F. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verifications completed by the PHA, and the current eligibility criteria in effect. If the family is determined to be eligible, the PHA will mail a notification of eligibility. Such families will be placed in a "pool" of eligible applicants. Applicants from the pool will be issued a voucher in accordance with all preference requirements. Each applicant will receive a briefing in accordance with the requirements of this plan prior to receipt of the voucher.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

A. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]

The PHA will utilize the following procedures for opening the waiting list.

When the PHA opens the waiting list, the PHA will advertise the programs for which applications are being accepted through public notice on the PHA's website and in local newspapers (including minority publications if available).

The notice will contain: the dates, times, and the locations where families may apply; the programs for which applications will be taken; a brief description of the program; a statement that public housing residents must submit a separate application if they want to apply for section 8; limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

Closing the Waiting List

The PHA may stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 12 months. The PHA will give at least 15 days' notice prior to closing the list. When the period for accepting applications is over, the PHA will add the new applicants to the list by separating the new applicants into groups based on preferences.

B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204]

The PHA uses a single waiting list for admission to its Section 8 tenant-based assistance program.

Except for Special Admissions, applicants will be selected from the PHA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed: applicant name; family unit size (number of bedrooms family qualifies for under PHA subsidy standards); date and time of application; qualification for any local preference; racial or ethnic designation of the head of household.

C. SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The PHA maintains separate records of these admissions. Applicants, who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit: family displaced because of demolition or disposition of a public or Indian housing project; a family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project; for housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990; a family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and a non-purchasing family residing in a HOPE 1 or HOPE 2 project.

Also included under the category of Special Admissions are VASH voucher holders who no longer require case management services and who are ready to be transitioned to a regular voucher. For purposes of admission under this Section, the number of VASH voucher holders converted to regular vouchers in any calendar year shall not exceed the lesser of 25% of the number of new regular vouchers placed under lease in the previously completed calendar year or projected available funding.

D. RESERVED FOR FUTURE USE

E. LOCAL PREFERENCES [24 CFR 5.410]

The PHA uses the following Local Preference system as described below. If an applicant makes a false statement in order to qualify for a Local preference, the PHA will deny the Local preference for the family.

1. Residency preference - Families who live, work, or have been hired to work or who are

attending school in Lebanon County or Dauphin County. This preference shall be worth fifty (60) points.

2. Domestic Violence Preference - Families who are victims of domestic violence shall receive a preference worth ten (20) points. For the purposes of this preference, the certification process and the definition of domestic violence shall be the same as that used in the most recent version of the Violence Against Woman Act (VAWA) and related implementing regulations published by HUD.

3. Transitional/Condemned Housing Preference – Applicants in this preference class are eligible for either, but not both of the following preferences.

1) Transitional Housing - Families who have been selected to, or are currently participating in, a transitional housing program which receives funding through: McKinney-Vento; HEARTH, HOME; or the Commonwealth of Pennsylvania shall be worth fifteen (18) points. NOTE – To claim this preference the applicant must be referred to the HA by a recognized transitional housing program provider. The applicant MAY NOT claim this preference without a referral from a program provider.

2) Condemned Housing – Families whose current residence has been condemned by a Federal, State or Local government agency through no fault of the applicant. NOTE – To claim this preference the applicant must be referred to the HA by the governmental entity authorized by law to issue the condemnation action. The referring entity must certify that the circumstances which lead to the condemnation was not the direct result of actions or behavior by the applicant.

4. Employment/Student preference. Preference shall be given to an applicant household whose head, spouse, co-head or unrelated partner of the head of household. Is employed at least 17 ½ hours per week in a position which generates employment income countable under HUD’s definition of Annual Income or is actively receiving Unemployment Compensation related to having been employed at least 17-1/2 hours per week or is currently a full-time student, who is a person carrying a subject load that is considered full-time for day students under the standards and practices of the education institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree. The Employment/Student Preference shall also apply if the head of household, spouse, co-head, or unrelated partner of head of household are age 62 or older or are receiving Social Security Disability, Supplemental Security Income (SSI) or any other payments based on an individual’s inability to work. This preference shall be worth 10 points

5. Homeless Preference - 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. This preference shall be worth 5 points.

Points awarded for the above listed preferences shall be cumulative as shown in Table 1.

Table 1 - Lebanon County Housing
Section 8 Voucher Program - Application Preferences

Residency	Domestic Violence	Trans/Cond Housing	Working	Homeless	Total Points
60	20	18	10	5	113
60	20	18	10	0	108
60	20	18	0	0	98
60	0	18	10	5	93
60	0	0	10	5	75
60	20	0	0	0	80
60	0	18	0	0	78
60	0	0	10	5	75
60	0	0	10	0	70
60	0	0	0	5	65
60	0	0	0	0	60
0	20	18	10	5	53
0	20	18	10	0	48
0	20	18	0	0	38
0	0	18	10	5	33
0	0	18	10	0	28
0	20	0	0	0	20
0	0	18	0	0	18
0	20	0	0	0	20
0	0	0	10	5	15
0	0	0	10	0	10
0	0	0	0	5	5
0	0	0	0	0	0

Preference Points

Residency	60	Domestic Violence	20
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Transit/Condemned Housing	18	Working	10
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Homeless	5
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Single applicants will be treated as any other eligible family on the waiting list.

NOTE: The Above preferences shall be applicable to all applications received or updated on or after 00:00:01 May1, 2021. Applicants who applied before May 1, 2021 and whose application has not been update by the applicant shall be ranked according to the preference system in place in version 1.9 of Chapter 4 of the Section 8 Administrative Plan in effect prior to May 1, 2021.

F. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the PHA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as “extremely low-income families.” The PHA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

The PHA’s income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The PHA is also exempted from this requirement where the PHA is providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

The PHA shall have the discretion, at least annually, to exercise the “fungibility” provision of the QHWRA. This provision allows the PHA to admit less than the minimum 40% of its extremely low-income families in a fiscal year to its public housing program to the extent that the PHA’s admission of extremely low-income families in the tenant-based assistance program exceeds 75% of all admissions during the fiscal year. If exercising this option the PHA will follow the fungibility threshold limitations as set forth in QHWRA legislation.

The discretion by the PHA to exercise the fungibility provision is also reflected in the PHA’s public Housing Admissions and Continued Occupancy Policy.

G. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION

At time of the initial application an applicant's certification that they qualify for a preference will be accepted without verification. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the Local Preference and given an opportunity for a meeting.

If, at the time the family applied, the preference claim was the only reason for placement of the family on the list and the family cannot verify their eligibility for the preference as of the date of application, the family will be removed from the list.

H. TARGETED FUNDING [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are identified by codes in the automated system.

I. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 5.410]

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the PHA in writing when their circumstances change.

When an applicant claims an additional preference, s/he will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before family(ies) with a higher preference, the family will be returned to the waiting list.

Cross-Listing of Different Housing Programs and Section 8 [24 CFR 982.205(a)]

If the waiting list for the PHA's public housing program, or moderate rehabilitation program is open at the time an applicant applies for Section 8, the PHA must offer to place the family on its waiting lists for the other programs.

The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing: refuse to list the applicant on the PHA waiting list for tenant-based assistance; deny any admission preference for which the applicant is currently qualified; 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 selection policy; or remove the applicant from the waiting list.

However, the PHA may remove the applicant from the waiting list for tenant-based assistance if the PHA has offered the applicant assistance under the voucher program.

J. ORDER OF SELECTION [24 CFR 982.207(e)]

The PHA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method

specified in this plan.

Applicants will be selected from the waiting list by lottery according to the following procedures.

Applicants will be placed on the waiting list in groups, with each group composed of applicants with an equal number of preference points. Members of the applicant group with a higher number of preference points shall be selected before applicants with a lower number of preference points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

The Section 8 Program Director or designee shall determine when and how many applicants should be selected from the waiting list. This determination shall be based on factors which include, but are not limited to: available funding from HUD; current monthly expenditure level; current number of shoppers (processed applicants with vouchers but who have not yet rented an assisted dwelling) and anticipated turnover rate of current voucher holders.

Once a determination is made that additional applicants should be selected from the waiting list, the Section 8 Program Director shall inform the Executive Director of the number of voucher holders to be selected from the waiting list.

The Executive Director or his designee shall schedule the date of time of the random drawing of applicants from the waiting list. The drawing shall be performed by computer using a random number generator. The drawing shall be witnessed by a least one individual who is not an employee of the PHA. Applicants whose application number matches one of the randomly generated numbers will be selected from the waiting list.

Random number generation shall take into account the preference groups. In no case shall an applicant with a lower preference be selected over an applicant with a higher preference (except as may be required by HUD income targeting requirements).

If a sufficient number of higher preference applicants are not selected during the initial drawing, successive drawings will be held until the previously determined number of applicants are selected, while ensuring integrity of the preference groupings. In cases where the number of applicants to be selected exceeds the total number of applicants in the highest preference group, then all members of that preference group will be selected from the waiting list. The remaining applicants will then be selected by random number generation as described above.

The list of application numbers (application numbers are a computer generated sequence number, not related to the applicant's social security number, birth date, name or any other personal information) selected at the most recent drawing will be posted on the Authority website.

K. FINAL VERIFICATION OF PREFERENCES [24 CFR 5.415]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the PHA will obtain necessary verifications of preference at the interview and by third party verification.

L. PREFERENCE DENIAL [24 CFR 5.415]

If the PHA denies a preference, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review with the Section 8 Supervisor. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the Waiting List.

M. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]

Applicants are required to inform the PHA in writing of changes in address, telephone number, family composition and family income. Applicants are also required to respond to requests from the PHA to update information on their application and to determine their interest in assistance.

N. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The Waiting List may be purged as deemed necessary by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant that require a response will state that failure to respond within 21 calendar days will result in the applicant's name being dropped from the waiting list. An extension to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Section 8 Supervisor determines there were circumstances beyond the applicant's control. Examples of such circumstances include, but are not limited to: hospitalization of the applicant or immediate family member; death of an immediate family member; or temporary military service (such as National Guard duty).

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the PHA's procedures when a family's size changes, or a family selects a unit size that is different from the Voucher.

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

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

One bedroom will be generally be assigned for each two family members. The PHA will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, the PHA assigns one bedroom to two people within the following guidelines:

Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.

Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family

during school recesses.

Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

A single pregnant woman with no other family members must be treated as a two-person family.

Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]

The PHA shall grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The PHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

Verified medical or health reason; or

Elderly persons or persons with disabilities who may require a live-in attendant.

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by the PHA's subsidy standards. Such request must be made in writing within 10 business days of the PHA's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

The PHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health related reasons must be verified by a doctor or other medical professional.

PHA Error

If the PHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the PHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the PHA subsidy standards, the above references guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the PHA within 10 business days. The above referenced guidelines will apply.

Underhoused and Overhoused Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the PHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

If a family with a disability is underhoused in an accessible unit.

If a family requires the additional bedroom because of a health problem which has been verified by the PHA.

The PHA and family have been unable to locate a unit within 60 days.

Transfer Waiting List

When a change in family composition requires a larger Voucher size and no funds are available, the family will be placed on a Transfer List.

Families will be selected from the Transfer List before families are selected from the applicant waiting list. This assures that families who are already on the program are in the appropriate sized units.

Families will be selected from this list when there is available funding, in the following

sequence:

A participant family (whose family composition has been approved by the PHA) who requires a change in Voucher size because they are living in a unit which is overcrowded according to Housing Quality Standards.

A participant family (whose family composition has been approved by the PHA) who requires a change in Voucher size under the Subsidy Standards, but not under Housing Quality Standards.

All others who require a transfer as determined by the PHA.

C. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

Subsidy Limitation: The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the lower of:

The payment standard amount for the family unit size; or

The payment standard amount for the unit size rented by the family.

Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

HQS GUIDELINES FOR UNIT SIZE SELECTED

Unit Size	Maximum Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

Chapter 6

INCOME, INCOME EXCLUSIONS, DEDUCTIONS & TTP

INTRODUCTION

This Chapter defines annual income and explains the allowable expenses and deductions to be subtracted from Annual Income. In addition, criteria are detailed as to how the presence or absence of household members may affect the Total Tenant Payment. Once the annual income is determined, the PHA subtracts all allowable deductions (allowances) to determine the adjusted annual income on which the Total Tenant Payment is based.

A. INCOME

Annual income means all amounts, monetary or not (including but not limited to the value of goods and services), that:

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. Are not specifically excluded from annual income.

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, amortization of capital indebtedness or depreciation of assets are not used as deductions in determining net income. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is a 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 or depreciation are not used as deductions in determining net income. Any withdrawal of cash or assets from an investment is 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 includes 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. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
6. Welfare assistance provided by any agency is included. In addition, imputed welfare assistance must be included if the individual has lost welfare benefits according to the following conditions:

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.

Specified welfare benefit reduction does not include a reduction or termination of welfare benefits by the welfare agency under the following circumstances:

- a) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- b) 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
- c) because a family member has not complied with other welfare agency requirements.

A family's annual income includes the amount of the imputed welfare income, plus the total amount of other annual income. The imputed welfare income will be included in annual income during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency). 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. The PHA may not include

imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

7. Periodic and determinable allowances, such as alimony, 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. (Special pay to a member exposed to hostile fire is excluded.)

B. TYPES OF INCOME EXCLUSIONS

1. *Fully Excluded Income* - Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination. For fully excluded income the PHA is not required to:

- Verify the income in accordance with the HUD prescribed verification hierarchy;
- Document in the tenant file why third party verification was not available;
- Report the income in Section 7 of the form HUD 50058

The PHA may accept an applicant or participant's self-certification as verification of fully excluded income. The PHA's application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. The PHA has the option of elevating the verification requirements if necessary, to determine if a source of income qualifies for a full exclusion.

Examples of fully excluded income categories that are verifiable through applicant or participant self-certification are: Supplemental Nutrition Assistance Program (SNAP) benefits (formerly known as food stamps); Income from a live-in aide.

2. *Partially Excluded Income* – Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income. For partially excluded income, the PHA is required to:

- Comply with the HUD prescribed verification requirements and all applicable regulations pertaining to the determination of annual income, and
- Report the income in Section 7 of the form HUD -55058 (see HUD Notice 2013-04 for more detailed examples of how to calculate partially excluded income)

Examples of partially excluded income include the Department of Veterans Affairs “aid and Attendance” benefits; and earnings in excess of \$480 for full time students 18 years old or older.

C. INCOME EXCLUSIONS INCOME EXCLUSION LISTING

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;
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;
6. The full amount of student financial assistance (tuition and fees) paid directly to the student or to the educational institution. The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to a 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 of these expenses 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.

7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
8. The amounts received from the following programs:
 - a) Amounts received under training programs funded by HUD;

b) 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);

c). Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

d) 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 Housing Authority 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;

e). 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;
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. For family members who enrolled in certain training programs prior to 10/1/99, the earnings and benefits resulting from the participation if the program provides employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act (42 U.S.C. 1437t), or any comparable Federal, State, or local law during the exclusion period. For purposes of this exclusion the following definitions apply:

a) Comparable Federal, State or local law means a program providing employment training and supportive services that:

- i. Is authorized by a Federal, State or local law;
- ii. Is funded by the Federal, State or local government;
- iii. Is operated or administered by a public agency and
- iv. Has as its objective to assist participants in acquiring employment skills.

b) Exclusion period means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.

c) Earnings and benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

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;
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. These exclusions include:
 - a) The value of the allotment of food stamps
 - b) Payments to volunteers under the Domestic Volunteer Services Act of 1973
 - c) Payments received under the Alaska Native Claims Settlement Act
 - d) Income from submarginal land of the U.S. that is held in trust for certain Indian tribes
 - e) Payments made under HHS Low-Income Energy Assistance Program
 - f) Payments received under the Job Training Partnership Act

- g) Income from the disposition of funds of the Grand River Band of Ottawa Indians
- h) The first \$2000 per capita received from judgment funds awarded for certain Indian claims
- i) Amount of scholarships awarded under Title IV including Work Study
- j) Payments received under the Older Americans Act of 1965
- k) Payments from Agent Orange Settlement
- l) Payments received under the Maine Indian Claims Act
- m) The value of child care under the Child Care and Development Block Grant Act of 1990
- n) Earned income tax credit refund payments
- o) Payments for living expenses under the Americorps Program

D. SELF-SUFFICIENCY INCENTIVES FOR PERSONS WITH DISABILITIES

Definitions

The following definitions apply for purposes of this section:

1. Disallowance means an exclusion from annual income.
2. 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.
3. Qualified family is a household:
 - a) 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;
 - b) 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
 - c) 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 PHA 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.

Disallowance of increase in annual income Initial twelve month exclusion

During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in Section "A" of this chapter) 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.

Second twelve month exclusion and phase-in

During the second cumulative twelve-month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

Maximum Period of Disallowance

The disallowance of increase income of an individual family member as provided in this section is limited to a total of 24 continuous months. Once an individual family member is determined to be eligible for this Earned Income Disregard (EID), the 24 month period shall begin. If the family member discontinues the employment that initially qualified the family for the EID, the 24 calendar month period continues. The EID benefit is limited to a lifetime 24 month period for the qualifying household member. At the end of the 24 months, the EID ends regardless of how many months were "used". In addition, the individual family member may receive no more than a total of 12 months for the 100% income forgiveness and a total of twelve months for the 50% income forgiveness.

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)

E. DEDUCTIONS FROM ANNUAL INCOME

The following deductions will be made 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:

Unreimbursed medical expenses of any elderly family or disabled family (this provision may also apply to non-elderly/non-disabled families, but only to the extent approved in appropriation acts) and

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, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.

4. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.
5. Child Support Payments – Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded may not exceed \$480.00 per year for each child for whom such payment is made.

NOTE: The provisions of this section shall apply ONLY to the extent approved in appropriation acts.

6. Spousal Support Expenses – Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded shall not exceed the lesser of: the amount that such family member has a legal obligation to pay or \$550.00 per year for each individual for whom such payment is made.

NOTE: The provisions of this section shall apply ONLY to the extent approved in appropriation acts.

F. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT

The PHA must compute all applicable income of every family member who is in the household, including those who are temporarily absent. "Temporarily absent" is defined as away from the unit for less than 90 consecutive days in any twelve month period. At the request of the family any member of the household will be considered permanently absent if s/he is away from the unit for 90 or more consecutive days and is not expected to return to the dwelling (subject to review by the Authority), except as otherwise provided in this Chapter.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit using this policy.

Absence due to military service

If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 90 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance may be terminated in accordance with the PHA's "Absence of Entire Family" policy.

Absence Due to Full-time Student Status

Full time students who attend school away from the home will be treated in the following manner: A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of the dwelling size.

Absence due to Incarceration

If the sole member is incarcerated for more than 90 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 90 consecutive days in a twelve-

month period. The return of any such member shall be subject to compliance with the applicant eligibility and screening process. If the incarceration was for drug-related or violent criminal activity the PHA will not allow the member to return to the household.

Absence of Children due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home. If the time period is to be greater than three of months from the date of removal of the child/ren, or if all the children are removed from the home permanently, the family will be issued a new voucher for an appropriately size dwelling.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate assistance in accordance with appropriate rules and regulations.

Families are required both to notify the PHA and the Owner before they move out of a unit and to give the PHA information about any family absence from the unit.

Families must notify the PHA at least 7 days before leaving the unit or no less than 2 days after leaving the unit if they are going to be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the assisted unit for more than 60 consecutive days (even if the rent is paid) the Authority reserves the right to consider the dwelling to be vacated and to terminate assistance.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may: write letters to the family at the unit; telephone the family at the unit; interview neighbors; verify if utilities are in service and/or check with the post office.

A person with a disability may request an extension of time as an accommodation, provided that there is a reasonable expectation that the tenant's absence from the dwelling will not exceed 180 consecutive calendar days.

If the absence which resulted in termination of assistance was due to a person's disability, and the PHA can verify that the person was unable to notify the PHA, the PHA may choose (if funding is available) to reinstate the family's assistance. However, any such request from the participant must be made within 180 calendar days of the date the assistance was terminated.

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor for the first 90 days. If during the 90-day period

the court awards custody or legal guardianship to the caretaker, the voucher will be transferred to the caretaker (subject to the PHA's applicant screening criteria).

If the court has not awarded custody or legal guardianship within 90 days, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status. The PHA may transfer the voucher to the caretaker (subject to the PHA's applicant screening criteria), in the absence of a court order, if the caretaker has been in the unit for more than 90 days and it is reasonable to expect that custody will be granted.

If custody is awarded for a limited time, the PHA will state in writing that the transfer of the voucher is for that limited time or as long as the caretaker has custody of the children. The PHA will use discretion as deemed appropriate in determining any further assignation of the voucher on behalf of the children.

When the PHA approves a person to reside in the unit as caretaker for the child/ren, the caretaker's income WILL be included in calculating the TTP.

Visitors

Any individual not included on the lease who has been in the unit a total of 48 hours in a calendar month (whether or not the person sleeps in the dwelling) without PHA approval will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or other knowledgeable individuals will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA may terminate assistance, since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer a member of the household may visit for up to 30 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to the PHA

Reporting changes in household composition to the PHA is both a HUD and a PHA requirement.

The family obligations require the family to request in writing PHA approval to add any other

family member as an occupant of the unit and to inform the PHA within 15 days of the birth, adoption or court-awarded custody of a child.

If the family does not obtain prior written approval from the PHA, any person the family has permitted to move in will be considered an unauthorized household member.

An interim reexamination will be conducted for any additions to the household.

Reporting Absences to the PHA

Reporting changes in household composition is both a HUD and a PHA requirement.

If a family member leaves the household, the family must report this change to the PHA, in writing, within 15 days of the change and certify as to whether the member is temporarily absent or permanently absent.

The PHA will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy.

G. ANNUALIZATION OF INCOME

If it is not feasible to anticipate a level of income over a 12 month period (e.g. seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

H. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income may be subject to interim recertifications at the discretion of the PHA.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, the PHA will make inquiry of the head of household as to the nature of the family's accessible resources.

I. REGULAR CONTRIBUTIONS AND GIFTS

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every 3 months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$200.00 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further definition.)

If the family's expenses exceed its known income, the PHA will inquire of the family regarding contributions and gifts.

J. ALIMONY AND CHILD SUPPORT

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the PHA will use the reduced amount, provided that:

The Family has not received the full amount of support and/or alimony for at least the past ninety (90) days AND;

The PHA receives verification of the reduced benefit from the agency responsible for enforcement or collection OR the family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

K. LUMP-SUM RECEIPTS

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, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

The PHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

The PHA will calculate prospectively if the family reported the payment within 30 days and retroactively to date of receipt if the receipt was not reported within that time frame.

Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

The PHA will determine the percent of the year remaining until the next annual recertification as of the date of the interim. The PHA will then apply the percentage balance to the lump sum and add it to the rest of the annual income.

The lump sum will be added in the same way for any other interim re-examinations which occur prior to the next annual recertification.

Retroactive Calculation Methodology

The PHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The PHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the PHA.

The family must pay this "retroactive" amount to the PHA in a lump sum. However, at the PHA's option, the PHA may enter into a Payment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

L. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

M. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The PHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The PHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or

separation are not considered to be assets disposed of for less than fair market value.

The PHA's minimum threshold for counting assets disposed of for less than Fair Market value is \$1,000.00. If the total value of assets disposed of within a one-year period is less than \$1,000.00, they will not be considered an asset.

N. CHILD CARE EXPENSES

Child care expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

In the case of a child attending private school, only after-hours care can be counted as child care expenses.

Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child care. Examples of those adult members who would be considered unable to care for the child include:

The abuser in a documented child abuse situation, or

A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

Allowability of deductions for child care expenses is based on the following guidelines:

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work and such expenses must be reasonable and customary for the service provided. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

O. MEDICAL EXPENSES

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

Accupressure, accupuncture and related herbal medicines, will not be considered allowable medical expenses.

P. MINIMUM RENT [24 CFR 5.616]

Minimum Rent

"Minimum rent" is \$50.00. Minimum rent refers to the Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Hardship Requests for an Exception to Minimum Rent

The PHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The PHA will review all relevant circumstances brought to the PHA's attention regarding financial hardship as it applies to the minimum rent. The following section states the PHA's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception the family's circumstances must fall under one of the following hardship criteria: the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996; or the family would be evicted because it is unable to pay the minimum rent; or the income of the family has decreased because of changed circumstances, including loss of employment; or a death has occurred in the family.

PHA Notification to Families of Right to Hardship Exception

The PHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent.

If the minimum rent is the greatest figure in the calculation of Total Tenant Payment, PHA staff will include a copy of the notice regarding hardship request provided to the family in the family's file. The PHA notification will advise families that hardship exception determinations are subject to PHA review and hearing procedures. The PHA will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing and must include a statement of the family hardship that qualify the family for an exception. The PHA will request documentation as proof of financial hardship. The PHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Suspension of Minimum Rent

The PHA will grant the minimum rent exception to all families who request it, effective the first of the following month. The minimum rent will be suspended until the PHA determines whether the hardship is covered by statute and is of a temporary or long term nature.

"Suspension" means that the PHA must not use the minimum rent calculation until the PHA has made this decision. During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly. If the PHA determines that the minimum rent is not covered by statute, the PHA will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

If the PHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The PHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to the PHA" chapter for Repayment agreement policy).

Long-Term Duration Hardships

If the PHA determines that there is a qualifying long-term financial hardship, the PHA must exempt the family from the minimum rent requirements.

Retroactive Determination

The PHA will reimburse the family for any minimum rent charges which took effect after October 21, 1998 that qualified for one of the mandatory exceptions. If the family is owed a retroactive payment, the PHA will offer the family a choice of either a cash refund or a credit towards their rent contribution. The PHA's definition of a cash refund is a check made out to the family. The PHA will not provide a cash refund for amounts owed to the family which are less than \$25.00 and will offset the amount against future HAP payments.

Q. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES

Applicability

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS

The same Utility Allowance Schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is 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. Allowances are not based on an individual family's actual energy consumption.

The PHA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The PHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

An allowance for tenant-paid air conditioning will not be provided since the majority of housing units in the market do not have central air conditioning or are not wired for tenant installed air conditioners.

The PHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

The approved utility allowance schedule is given to the families along with their voucher. The utility allowance is based on the lesser size of the dwelling unit actually leased by the family or the voucher size issued, as determine under the PHAs subsidy standards. In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

Where families provide their own range and refrigerator, the PHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance based on the appliance's useful life.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the

family, the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant.

Chapter 7

VERIFICATION PROCEDURES

INTRODUCTION

HUD regulations require that the PHA verify the factors of eligibility and Total Tenant Payment. PHA staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This Chapter explains the PHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The PHA will obtain proper authorization from the family before requesting information from independent sources.

A. METHODS OF VERIFICATION AND TIME ALLOWED

The PHA will verify information through the five methods of verification acceptable to HUD in the following order:

1. Enterprise Income Verification
2. Third-Party Written
3. Third-Party Oral
4. Review of Documents
5. Certification/Self-Declaration

The PHA will allow six weeks for return of third-party verifications and two weeks to obtain other types of verifications before going to the next method. The PHA will document the file as to why third party written verification was not used.

For applicants, verifications may not be more than 120 days old at the start of program participation. For participants, they are valid for 120 days from date of receipt.

Enterprise Income Verification

The PHA's procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents. The PHA will follow "HUD Guidelines for Projecting Annual Income When Enterprise Income Verification (EIV) Data Is Available" in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of \$200 or more per month.

No Substantial Difference. If EIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the PHA will follow these guidelines:

- 1) If the EIV figure is less than the family's figure, the PHA will use the family's information.
- 2) If the EIV figure is more than the family's figure, the PHA will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the PHA will use the family-provided information.

Substantial Difference. If EIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the PHA will follow these guidelines:

- 1) The PHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).
- 2) When the PHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- 3) The PHA will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
- 4) The PHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

Third-Party Written Verification

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third party written verifications.

The PHA will accept verifications in the form of computerized printouts delivered by the family from the following agencies: Social Security Administration; Veterans Administration; Welfare Assistance; Unemployment Compensation Board; Domestic Relations Office and City or County Courts.

Third-Party Oral Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to document with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, the PHA will rely on any documents provided by the Family.

Review of Documents

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within eight weeks, the PHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

The PHA will accept the following documents from the family provided that the document is such that tampering would be easily noted: printed wage stubs; computer print-outs from the employer; signed letters (provided that the information is confirmed by phone); other documents noted in this Chapter as acceptable verification. The PHA will accept photo copies or electronically transferred documents.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third party verification. The PHA will not delay the processing of an application beyond eight weeks because a third party information provider does not return the verification in a timely manner.

Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification. Self-certification means a statement under penalty of perjury and must be witnessed.

B. RELEASE OF INFORMATION

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form. In addition, family members will be required to sign the PHA's specific authorization forms in addition to the HUD form 9886, Authorization for Release of Information/Privacy Act Notice. Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the PHA or HUD.

C. COMPUTER MATCHING

Where allowed by HUD and/or other State or local agencies, computer matching will be done. The PHA will utilize HUD computer-based verification systems, including TEVS and EIV as a tool for obtaining information on both earned and unearned sources of income to the family.

When computer matching results in a discrepancy with information in the PHA records, the PHA will follow up with the family and verify income sources to resolve this discrepancy. The family must promptly furnish to the PHA any letter or other notice received from HUD that provides information concerning the amount or verification of family income. If the family has unreported or underreported income, the PHA will follow the relevant procedures in this plan.

D. ITEMS TO BE VERIFIED

1. All income not specifically excluded by the regulations.
2. Full-time student status including High School students who are 18 or over.
3. Current assets including assets disposed of for less than fair market value in preceding two years.
4. Child care expense where it allows an **adult** family member to be employed or to further his/her education.
5. Total medical expenses of all family member in households whose head or spouse is elderly or disabled.
6. Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an **adult** family member to be employed.
7. Disability for determination of preferences, allowances or deductions.
8. U.S. citizenship/eligible immigrant status
9. Social Security Numbers for all family members over 6 years of age or older who have been issued a social security number.
10. "Preference" status
11. Familial/Marital status when needed for head or spouse definition.
12. Verification of reduction in welfare benefits for noncompliance: the PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

E. VERIFICATION OF INCOME

This section defines the methods the PHA will use to verify various types of income. If available income verifications from the HUD EIV system shall always be the preferred method of verification.

Employment Income

Verification forms request the employer to specify the: dates of employment; amount and frequency of pay; date of the last pay increase; likelihood of change of employment status and effective date of any known salary increase during the next 12 months; year to date earnings; estimated income from overtime, tips, bonus pay expected during next 12 months.

Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer.
2. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms plus income tax return forms.
4. Income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income. In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements.

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include, in this order:

1. Computer report electronically obtained or in hard copy.
2. Benefit verification form completed by agency providing the benefits.
3. Award or benefit notification letters prepared and signed by the providing agency.

Unemployment Compensation

Acceptable methods of verification include, in this order:

1. Verification form completed by the unemployment compensation agency.
2. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.

3. Payment stubs.

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. PHA verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

1. PHA verification form or computer record from the Court Trustee.
2. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
3. A notarized letter from the person paying the support.
4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide: a copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules and statement from the agency responsible for enforcing payments to show that the payments are delinquent.

Net Income from a Business

In order to verify the net income from a business, the PHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

1. IRS Form 1040, including: Schedule C (Small Business); Schedule E (Rental Property Income); and/or Schedule F (Farm Income)
2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application.
4. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in

business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

5. Family's self-certification as to net income realized from the business during previous years.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the PHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

Recurring Gifts

The family must furnish a self-certification which contains the following information: the person who provides the gifts; the value of the gifts; the regularity (dates) of the gifts; and the purpose of the gifts.

Zero Income Status

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The PHA will run a credit report if information is received that indicates the family has an unreported income source.

Full-time Student Status

Only the first \$480 of the earned income of full time students, other than head, co-head, or spouse, will be counted towards family income. Financial aid, scholarships and grants received by full time students is not counted towards family income.

Verification of full time student status includes: written verification from the registrar's office or other school official; or school records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

F. INCOME FROM ASSETS

Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

1. Account statements, passbooks, certificates of deposit, or PHA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the PHA must adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

G. VERIFICATION OF ASSETS

Family Assets

The PHA will require the information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial

statements completed by a financial institution or broker.

3. Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Family declaration of assets under \$5,000

The PHA must obtain third-party verification of all family assets upon admitting a family to the public housing program and then again at least every 3 years thereafter. During the intervening annual reexaminations, a PHA has the discretion under this provision to accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

A PHA may obtain a family's declaration of assets under \$5,000 at the family's next interim or annual reexamination on or after May 1, 2019. PHAs are required to have all family members 18 years of age and older sign the family's declaration of total assets. For ease of implementation, a PHA may wish to require families to submit a declaration of assets along with the consent forms that are required pursuant to 24 CFR 5.230. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, a PHA must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, a PHA must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the PHA is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all Certifications and Re-certifications, the PHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value (or if it is otherwise determined that there has been an unexplained decrease in assets), verification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

Child Care Expenses

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services. Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods. The family must certify as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care a reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes. In addition, the attendant must provide a written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks

the family used to make those payments) or stubs from the agency providing the services.

5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. PHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.
8. The PHA will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities

For all types of assistance a written certification is required from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed. In addition, the family must certify as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

For attendant care: a written certification from the attendant of amount received from the family, frequency of receipt, and hours of care provided; and/or copies of canceled checks the family used to make payments.

For auxiliary apparatus receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus. In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

I. VERIFICATION OF LEGAL IDENTITY

In order to prevent program abuse, the PHA will require applicants to furnish verification of legal identity for all family members. The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

1. Certificate of Birth, naturalization papers
2. Church issued baptismal certificate
3. Current, valid Driver's license
4. U.S. military discharge (DD 214)

5. U.S. passport
6. Voter's registration
7. Company/agency Identification Card
8. Department of Motor Vehicles Identification Card

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

1. Certificate of Birth
2. Adoption papers
3. Custody agreement
4. Health and Human Services ID
5. School records

If none of these documents can be provided, a third party who knows the person may, at the PHA's discretion, provide verification.

J. VERIFICAITON OF MARITAL STATUS

Certification will normally be considered sufficient verification of marital status. In cases where reasonable doubt exists, the family may be asked to provide documentation such as: a marriage certificate; certified copy of a divorce decree; or court-ordered separation agreement.

K. VERIFICAITON OF FAMILIAL RELATIONSHIPS

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

L. VERIFICAITON OF PERMANENTLY ABSENT FAMILY MEMBER

If an adult member who was formerly a member of the household is reported permanently absent by the family, the PHA will consider any of the following as verification: husband or wife institutes divorce action; husband or wife institutes legal separation; order of protection/restraining order obtained by one family member against another; proof of another home address, such as utility bills, canceled checks for rent, drivers license, or lease or rental agreement, if available; statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location. If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated. If no other proof can be provided, the PHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

M. VERIFICATION OF CHANGE IN FAMILY COMPOSITION

The PHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

N. VERIFICATION OF DISABILITY

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

O. VERIFICATION OF CITIZENSHIP/ELIGIBLE IMMIGRANT STATUS

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

The PHA will not require citizens to provide documentation of citizenship.

Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within ten days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. The PHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in. Once verification has been completed for any covered program, it need not be repeated, except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

Acceptable Documents of Eligible Immigration

Federal regulations stipulate that only the following documents are acceptable proof of immigration status: Resident Alien Card (I-551); Alien Registration Receipt Card (I-151); Arrival-Departure Record (I-94); Temporary Resident Card (I-688); Employment Authorization Card (I-688B); or a receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified. A birth certificate is not acceptable verification of status.

P. VERIFICATION OF SOCIAL SECURITY NUMBERS

1. **SSN Disclosure.** In accordance with 24 CFR §5.216, applicants and participants (including each member of the household and including, live-in aides, foster children, and foster adults) are required to disclose his/her SSA-assigned SSN, with the exception of the following individuals:
2.
 - a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States) **and** have not been assigned an SSN. These individuals in most instances would not be eligible for a SSN.

A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status is **not eligible** for housing assistance and cannot be housed.

A family that consists of two or more household members **and at least one** household member that has eligible U.S. citizenship or eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR §5.520. The PHA may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.

Note: Financial assistance may only be provided to individuals with eligible immigration status in accordance with 42 USC §1436a, which is

generally evidenced by the individual providing his/her Green Card (Form I-551 – U.S. Permanent Residence Card) or other documentation approved by the Department of Homeland Security for noncitizens with refugee or asylee status.

- b. Existing program participants, who as of January 31, 2010, were 62 years of age or older (born on or before January 31, 1948). This exemption continues even if the individual moves to a new public housing assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended). In accordance with 24 CFR §5.212, the collection, maintenance, use, and dissemination of SSNs, any information derived from SSNs and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local laws.

An individual who previously declared to have eligible immigration or eligible citizenship status may **not** change his/her declaration to no longer contend to have eligible immigration status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance of these requirements.

Note: There are no provisions under HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. A mixed family includes individuals that have both eligible and ineligible aliens so long as at least one household member is eligible. However, some State laws prohibit single ineligible individuals from executing a contract (i.e., lease or other legally binding documents). If this is the case in your State, the family must **not** be admitted into the program.

3. **SSN Documentation.** The PHA must request the applicant and participant (including each member of the household), who are not exempt under Paragraph 5 of this notice, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:
 - a. An original SSN card issued by SSA;
 - b. An original SSA-issued document, which contains the name and SSN of the individual; or
 - c. An original document issued by a Federal, State, or local government agency, which contains the name and SSN of the individual.

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned an SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in Paragraph 5 of this notice) are required to disclose his/her SSA-assigned SSN.

The SSA issues three types of social security cards depending on an individual's

citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

- a. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
 - i. U.S. citizens; or
 - ii. Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e., refugees and asylees).
 - b. The second type of card bears, in addition to the individual's name and SSN, the legend: "**NOT VALID FOR EMPLOYMENT.**" SSA issues this card to lawful noncitizens who do not have DHS permission to work and are required by law to provide an SSN to obtain general assistance benefits that they already have qualified for.
 - c. The third type of card bears, in addition to the individual's name and SSN, the legend "**VALID FOR WORK ONLY WITH DHS AUTHORIZATION.**" SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all noncitizens' documents with DHS before an SSN card is issued to a noncitizen.
- 4. Rejection of Documentation.** The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:
- a. The document is not an original document; or
 - b. The original document has been altered, mutilated, or is not legible; or
 - c. The document appears to be a forged document (i.e., does not appear to be authentic).

The PHA should explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the PHA within a specified time frame.

- 5. Verification of the SSN.** The PHA shall verify each disclosed SSN by:
- a. Obtaining the required documentation from applicants and participants (including each member of the household);
 - b. Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and
 - c. Recording the SSN on line 3n of the form HUD-50058 and transmitting the form HUD-50058 to HUD within a timely manner. PHAs are required to transmit the form HUD-50058 no later than 30 calendar days of receiving the

SSN documentation, to enable HUD to initiate its computer matching efforts for current program participants.

5. Invalid SSNs. An invalid SSN is an SSN that SSA has never assigned. SSA has never assigned an SSN with the first three digits of: 000, 666, or 900 series (numbers within the 900-999 range). Additionally, prior to June 25, 2011, SSA never assigned an SSN with the first three digits of: 000, 666, 772, 800, or 900 series. SSA has never assigned an SSN with the second two digits of 00 or the last four digits of 0000. For additional information on ways to determine if an SSN is valid, visit SSA's website: <http://www.socialsecurity.gov/employer/ssnvhighgroup.htm>.

6. Individuals without an assigned SSN. It is not uncommon for certain individuals to not have an SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

- a. U.S. newborn children (eligible citizens - these individuals will be issued an SSN upon SSA confirmation of birth).
- b. Noncitizens lawfully present in the U.S. (ineligible noncitizens - these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for).
- c. Noncitizens unlawfully present in the U.S. (ineligible noncitizens - typically, these individuals cannot be assigned an SSN).

PHAs are required to use the Public and Indian Housing Information Center (PIC) Tenant ID

Management tool to generate a unique identifier (commonly referred to as an alternate ID (ALT ID)) for those individuals who have not been assigned an SSN. A job aid for use of the PIC Tenant ID Management tool is available online at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/ts.

Contact the PIC Coach in your local HUD office if you need assistance with PIC. Once an individual discloses an SSN, the PHA must use the Tenant ID Management tool to replace the ALT ID with the disclosed SSN within 30 calendar days of receipt of the SSN. **Note:** SSA requires that an individual who has never been issued a SSN card or has lost their SSN card, complete Form SS-5 – *Application for a Social Security Card* to request an original or replacement SSN card or change information on his/her SSA record. The form is available online at www.socialsecurity.gov, or can be obtained at the local SSA office.

7. Individual Taxpayer Identification Number (ITIN). An ITIN is a taxpayer identification number for **Federal tax purposes only** for certain non-residents and resident noncitizens,

their spouses and dependents, who cannot obtain an SSN. The ITIN begins with the number "9" and is formatted like a SSN (9XX-XX-XXXX). However, the ITIN is **not** an SSN and PHAs must **not** report the ITIN on line 3n of the form HUD-50058. PHAs are required to use the Tenant ID Management tool to replace any reported ITIN on line 3n of the form HUD-50058 with an SSN or an ALT ID.

ITINs do not entitle a noncitizen to social security benefits, create any inference regarding a noncitizen's immigration status, or give a noncitizen a right to work in the U.S.

8. Addition of a New Household Member. When a participant requests to add a new household member, who is at least 6 years of age or is under the age of six and has an SSA-assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice at the time of such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA shall not add the new household member to the family composition until the family provides such documentation. The PHA is not authorized to generate an ALT ID for the affected household member.

When a participant requests to add a new household member, who is under the age of six and does not have an SSA-assigned SSN, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, **only if** the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA is required to generate an ALT ID as referenced in Paragraph 10 of this notice. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA **must** terminate the entire family's tenancy or assistance, or both

8. Special Provision for Applicants. Housing applicants are entitled to a 90 day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number of a family member under the age of 6 years. An extension of one additional 90 day period must be granted if the PHA determines, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the

control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for an SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the PHA must impose appropriate penalties, in accordance with 24 CFR 5.218

In terms of offering a grace period and an extension, if merited, the PHA will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90 day period, the PHA must determine whether a 90 day extension is merited. If it is not merited, the PHA must follow the provisions of 24 CFR 5.218. If a 90 day extension is merited, then the PHA must either verify the SSN for the child by the end of the 90 day extension period or follow the provisions of 24 CFR 5.218.

Q. VERIFICATION OF MEDICAL NEED FOR A LARGER UNIT

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

R. VERIFICATION OF WAITING LIST PREFERENCES

Local Preferences

Residency Preference: For families who live, work or have been hired to work in the jurisdiction of the PHA. Families who are unable to work due to age or disability automatically qualify for this preference. In order to verify that an applicant is a resident, the PHA will require a minimum of two of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing. For families who have been hired to work in jurisdiction of the PHA, a statement from the employer will be required.

Transitional Housing Preference: The PHA will require a referral from the appropriate agency certifying that the family has been enrolled in a qualifying transitional housing program.

Adaptive Housing Preference: A statement from a physician, rehabilitation specialist or licensed social worker that the family requires an accessible/adaptive dwelling; that such features are not present in the family's current dwelling or that the family occupies an accessible/adaptive

dwelling but that the monthly rent (including utility costs) exceeds 50% of the family's monthly income.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

INTRODUCTION

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the PHA will issue Vouchers to applicants whose eligibility has been determined. The number of Vouchers issued must ensure that the PHA stays as close as possible to 100 percent lease-up. The PHA performs a monthly calculation electronically to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the PHA can over-issue (issue more Vouchers than the budget allows to achieve leaseup).

The PHA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers which are over-issued must be honored. If the PHA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted individually or in groups. Families who attend group briefings and still have the need for individual assistance will be referred to a Section 8 staff member. Briefings will be conducted in English.

The purpose of the briefing is to explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The PHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings, without prior notification and approval of the PHA, may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the Voucher program will comply with all HUD requirements. The PHA may from time to time also include other information and/or materials which are not required by HUD.

The family is provided with the following information and materials:

The term of the voucher, and the PHA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

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. How the PHA determines the maximum allowable rent for an assisted unit.

Where the family may lease a unit. For family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.

The HUD required tenancy addendum, which must be included in the lease.

The Request for Approval of Tenancy form and a description of the procedure for requesting approval for a unit.

A statement of the PHA policy on providing information about families to prospective owners.

The PHA Subsidy Standards including when and how exceptions are made.

The HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The HUD brochure on lead-based paint.

Information on federal, State and local equal opportunity laws and a copy of the pamphlet "Fair Housing: It's Your Right".

A list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, notice that the PHA will provide a list of available accessible units known to the PHA.

The Family Obligations under the program.

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.

Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding the PHA's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations. A list of properties or property management organizations (if any) that own or operate housing units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, the PHA will ensure compliance with CFR 8.6 to ensure effective communication.

Move Briefing

A move briefing may be held for participants who will be reissued a Voucher to move and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

Owner Briefing

Briefings are held for owners as needed. All new owners receive a personal invitation and current owners are notified by letter. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties. Interested owners who request to sit in on scheduled family briefings to obtain information about the Voucher program will be allowed to do so.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the PHA will provide assistance to families who wish to do so.

The PHA has areas of poverty and minority concentration clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas.

The PHA has maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

The assistance provided to such families includes: direct contact with landlords; counseling with the family; providing information about services in various non-impacted areas; formal or informal discussions with landlord groups; formal or informal discussions with social service agencies; meeting with rental referral companies or agencies; meeting with fair housing groups or agencies

D. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

The owner is not required to but may collect a security deposit from the tenant. Security deposits charged to families may be any amount the owner wishes, not to exceed the amount charged to unassisted tenants up to the maximum permitted by state law.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

E. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a Voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Expirations

The Voucher is valid for a period of at least ninety calendar days from the date of issuance. The family must submit a Request for Approval of the Tenancy and Lease within the ninety-day period unless an extension has been granted by the PHA.

If the Voucher has expired, and has not been extended by the PHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

Suspensions

When a Request for Approval of Tenancy is received, the PHA will deduct the number of days required to process the request from the term of the voucher.

Extensions

A family may make a written request for an extension of the Voucher time period. All requests for extensions must be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the PHA primarily for these reasons:

If the family needs an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. Multiple extensions may be granted as a reasonable accommodation.

Extenuating circumstances such as hospitalization or a family emergency for an extended period of time that has affected the family's ability to find a unit within the initial ninety-day period.

The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the initial ninety-day period.

Unless approved by the Section 8 Supervisor, no more than one extension of 30 days will be granted.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the PHA Office to request assistance. Voucher holders will be notified at their briefing session that the PHA periodically updates the listing of available units and how the updated list may be obtained.

The PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

F. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Section 8 Supervisor shall consider the following factors to determine which of the families will continue to be assisted:

Which of the two new family units has custody of dependent children.

Which family member was the HOH when the Voucher was initially issued

The composition of the new family units, and which unit contains elderly or disabled

members.

Whether domestic violence was involved in the breakup.

Which family members remain in the unit.

Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the PHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

G. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit. A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member the PHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

Chapter 9

REQUEST FOR APPROVAL OF TENANCY & CONTRACT EXECUTION

INTRODUCTION

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA, or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This Chapter defines the types of eligible housing, the PHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Approval of Tenancy (RFAT).

A. REQUEST FOR APPROVAL OF TENANCY [24 CFR 982.302, 982.305(b)]

The Request for Approval of Tenancy (RFAT) and a copy of the proposed Lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Approval of Tenancy in the form and manner required by the PHA.

Both the owner and Voucher holder must sign the Request for Approval of Tenancy. The PHA will not permit the family to submit more than one RFAT at a time. The PHA will review the proposed lease and the Request for Approval of Tenancy documents to determine whether or not they are approvable. The Request will be approved if:

The unit is an eligible type of housing

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The Security Deposit is approvable in accordance with any limitations in this plan.

The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below). In addition to the above, at the time a family initially receives assistance (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly

adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

Disapproval of RFTA

If the PHA determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the Request. The owner will be given 15 calendar days to submit an approvable RFAT from the date of disapproval.

When, for any reason, an RFAT is not approved, the PHA will furnish another RFAT form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

Limitation on Submission of Approved RFTAs

Once the RFTA is submitted, the dwelling inspected and the lease approved, the family retains the option of choosing not to enter into a lease agreement for that particular unit. If the family's voucher has not expired the family may continue to search for a suitable dwelling and may submitted another RFTA. However, in no case shall the family be permitted to submit more than two approved RFTAs. If the second dwelling is found to meet all program standards and the property owner is willing to enter into a lease, then the family must enter into a lease agreement for that dwelling. If the family fails to enter into a lease agreement for the second approved dwelling the voucher will be withdrawn.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353, 982.54(d)(15)]

The PHA will approve any of the following types of housing in the Voucher program: all conventional structure types can be utilized; manufactured homes where the tenant leases the mobile home and the pad; manufactured homes where the tenant owns the mobile home and leases the pad; units owned (but not subsidized) by the PHA (following HUD-prescribed requirements); group homes; congregate facilities (only the shelter rent is assisted), cooperative housing and shared housing.

The PHA **will not** approve the following types of housing in the Voucher program: single room occupancy.

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development. The PHA may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

C. LEASE REVIEW [24 CFR 982.308]

The PHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also must have legal capacity to enter a lease under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the Request For Approval of Tenancy.

The family and owner must submit a standard form lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family., The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the PHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit: the PHA has inspected the unit and has determined that the unit satisfies the HQS; the landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum; and the PHA has approved leasing of the unit in accordance with program requirements

D. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease. The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction. Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the PHA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

The PHA will not approve separate charges for utilities that are not individually metered. Utilities to be paid by the tenant must be clearly indicated on the RFTA, enumerated on the lease and be subject to individual metering (or individual billing by a third party, such as the cost for refuse removal). All master metered utilities must be paid by the owner and the costs included in the monthly rent.

E. RENT LIMITATIONS [24 CFR 982.503]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

F. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

If the proposed Gross Rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent can be approved after negotiations with the owner, the PHA will continue processing the Request for Approval of Tenancy and Lease. If the revised rent involves a change in the provision of utilities, a new Request for Approval of Tenancy must be submitted by the owner.

If the owner does not agree on the rent after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

G. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the PHA will furnish prospective owners with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the landlord at the family's current and prior address. The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The PHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

The PHA will provide prospective owners with the following information, based on documentation in its possession: eviction history; damage to rental units; drug Trafficking by family members; the information will be provided for the last 2 years. The information will be provided orally or in writing. The PHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

H. CHANGE IN TOTAL TENANT PAYMENT PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the Total Family Share prior to the effective date of the HAP contract at admission, the information will be verified and the Total Family Share will be recalculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP Contract, even if verifications are more than 120 days old.

I. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The PHA prepares the Housing Assistance Contract and lease for execution. The family and the owner will execute the Lease agreement, and the owner and the PHA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The PHA will retain a copy of all signed documents.

The PHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed. The following PHA representative(s) is/are authorized to execute a contract on behalf of the PHA: Executive Director or his designee.

Owners must provide an Employer Identification Number or Social Security Number. Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the Management Agreement if the property is managed by a management agent. The owner must provide a home telephone number and business number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The PHA will inspect each unit under contract at least biennially. The PHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. This Chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements. (See the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter.)

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The PHA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the PHA will notify the tenant or owner (whomever is responsible for the utilities according to the RFAT) to have the utilities turned on. The owner and tenant will both certify that the utilities are on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. The PHA will not conduct a re-inspection.

There are four types of inspections the PHA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Approval of Tenancy.
2. Annual/Biennial: Must be conducted within twelve to twenty four months of the last annual/Biennial inspection.
3. Special/Complaint: At request of owner, family or an agency or third-party.
4. Quality Control

B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timely Initial HQS Inspection

The PHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for approval of tenancy. The same 15-day period will be suspended during any time when the unit is not available for inspection.

The Initial Inspection will be conducted to:

Determine if the unit and property meet the HQS defined in this Plan.

Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify the PHA once repairs are completed. On an initial inspection, the owner will be given up to 60 days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done. The owner will be allowed up to two re-inspections for repair work to be completed. If the time period given to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]

Section 220 of the 2014 HUD Appropriations Act allows PHAs to inspect assisted dwelling units during the term of a HAP contract not less than biennially instead of annually. The PHA has chosen to implement the biennial inspection process subject to the following conditions:

1. Assisted units scheduled for their next annual inspection on or after July 1, 2019 will be eligible to be inspected biennially, based on an initial one year phase in process. For the months of July 2019, September 2019, November 2019, January 2020, March 2020 and May 2020 all units which failed their respective most recent previous annual or initial inspection will be subject to an annual inspection. For the months of August 2019, October 2019, December 2019, February 2020, April 2020 and June 2020 ALL units shall be inspected on their respective inspection anniversary date, regardless of the previous inspection result.
2. Beginning in July 2020 to qualify for a biennial inspection the most recently completed dwelling inspection (initial or annual) must have documented no defects.

The PHA conducts an inspection in accordance with Housing Quality Standards at least biennially, The HQS deficiencies which cause a unit to fail must be corrected by the landlord unless the failure is due to tenant caused damage. The family must allow the PHA to inspect the unit at reasonable times (8:30 AM – 7:00 PM) with reasonable notice.

The family and owner are notified of the date and time of the inspection appointment by mail, email or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 15 days. If the family does not contact the PHA to reschedule the inspection, or if the family misses two inspection appointments, the PHA will

consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.) For non-emergency items, repairs must be made within 30 days (except that if the 30th day falls on a non-business day, the repair deadline shall automatically be extended until the next business day). For major repairs or weather sensitive repairs, the Housing Inspector may approve an extension beyond 30 days.

Re-inspection for Non-Life Threatening/ Non Emergency Violations

If the unit fails the inspection as the result of a non-life threatening/non-emergency violation(s), a letter listing the required repairs will be sent to the owner and tenant. The owner will be given 30 calendar days to complete the repairs. The PHA at its sole discretion may either re-inspect the dwelling or allow the owner to self-certify confirming that all repairs have been completed.

If the owner does not notify the Authority that repairs have been completed within 30 days, a termination notice will be issued to the tenant (with a copy to the owner), and the Housing Authority will issue a notice to abate (stop) the rent beginning on the day repairs were due to be completed.

Once repairs have been completed (and either the unit is re-inspected or a self certification is received by the Housing Authority), and at its sole discretion, the Authority may withdraw any termination notice or rent abatement notice that has been issued and resume payments effective as of the date that confirmation of the repairs is performed.

Self-certification is only acceptable for non-emergency/non-life threatening failures that are the owner's responsibility to fix. Failures in vacant units, emergency/life threatening failures and failures identified as the tenant's responsibility to fix must be re-inspected by the Authority. The Authority reserves the right to re-inspect any dwelling at any time subject to proper notice to the tenant and owner.

Re-inspection for Life Threatening/Emergency Violations

If the unit fails the inspection for life threatening violations the owner and tenant will be informed that repairs must be made within the time period specified in this policy. A re-inspection appointment will be scheduled.

If the unit fails the re-inspection, the Housing Authority will issue a notice to the tenant (with a copy to the owner) and abate (stop) the rent starting on the day the repairs were due to be completed.

Rent Increases

Rent to owner increases may not be approved if the unit is in a failed condition.

D. MOVE OUT/VACATE

Move out inspections may be performed at the discretion of the Section 8 Supervisor.

E. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

Special inspections may be scheduled between anniversary dates. The PHA has a duty to inspect a unit when a participant family or government official reports a condition that violates HQS. If the reported condition is consider life-threatening, then the PHA must inspect the unit within 24 hours of when the PHA receives the notification. If the condition is not considered life threatening, then the PHA must inspect the unit within 15 days of when the PHA receives the notification. The PHA will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the next annual/biennial inspection date is within 120 days of a special inspection, and as long as all areas of the dwelling are inspected that are included in an annual/biennial inspection, then the special inspection will be categorized as an annual/biennial and all annual/biennial procedures will be followed.

F. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by the Section 8 Supervisor on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS. The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

G. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The PHA adheres to the acceptability criteria in the program regulations with the additions described below.

Walls:

In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

Any exterior or interior surfaces with peeling or chipping lead paint must be repaired in accordance with the most recent HUD guidelines concerning lead paint. Deteriorated paint not containing lead may be repaired by the owner. In instances where the lead content of the painted surface is in question, the Authority will assume the paint contains lead.

Windows:

All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced. Windows must be weather stripped as needed to ensure a watertight seal. Dwellings without air

conditioning must have a screen on at least one window in each room. Window screens must be in good condition. (applies only if screens are required). Any room for sleeping must have a window or other secondary means of egress.

Doors:

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold. All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors:

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced. All floors must be in a finished state (no plywood). All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe may be used for kitchens and bathrooms.

Bath Fixtures:

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly. All sinks must have functioning stoppers.

Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Owners are responsible for providing and replacing old batteries for battery powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

Bedrooms:

Bedrooms must be at least fifty-six square feet in size, with minimum dimensions of seven feet by eight feet. (NOTE: this requirement will apply only to initial inspections conducted on or after May 1, 2004.) Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability. Minimum bedroom ceiling height is 7'6" or local code whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Modifications

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes. Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. PHA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

H. EMERGENCY/URGENT REPAIR ITEMS [24 CFR 982.401(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector: lack of security for the unit; waterlogged ceiling in imminent danger of falling; major plumbing leaks or flooding; natural gas leak or fumes; electrical problem which could result in shock or fire; no heat when outside temperature is below 50 degrees Fahrenheit and temperature inside unit is below 60 degrees Fahrenheit; utilities not in service or no running hot water; broken glass where someone could be injured; obstacle which prevents tenant's entrance or exit; or lack of a functioning toilet

The PHA may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, the PHA will notify the proper authorities.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated. If the emergency repair item(s) are not corrected in the time period required by the PHA, and it is an HQS breach that is a family obligation, the PHA will terminate the assistance to the family.

Smoke Detectors

The PHA will treat inoperable smoke detectors as an urgent fail item. If the smoke detector is not operating properly the PHA will contact the owner and tenant by the most expeditious means possible and request the owner to repair the smoke detector within 72 hours. The PHA will re-inspect the unit within five business days. If the PHA determines that the family has purposely disconnected the smoke detector or the detector requires a new battery, the family will be required to repair the smoke detector within 72 hours and the PHA will re-inspect the unit the within five business days.

I. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner has not completed the necessary repair(s) in the time period specified by the PHA, the assistance payment to the owner will be abated.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the deadline for repairs. The notice is generally for 15 days, depending on the nature of the repair(s) needed. The PHA will inspect abated units within 7 days of the owner's notification that the work has been completed. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

Reduction of Payments

The PHA will grant an extension in lieu of abatement in the following cases: there is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services; the repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds; or the repairs must be delayed due to climate conditions.

Extensions will be made for a period of time not to exceed 30 days. At the end of that time if the work is not completed or substantially complete, the PHA, at its discretion, may grant an additional extension or may begin termination of assistance.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the PHA may rescind the termination if the tenant chooses to remain in the unit. No more than two Housing Quality Standards inspections will be conducted after the termination notice is issued.

J. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family: tenant-paid utilities not in service; failure to provide or maintain family-supplied appliances; damage to the unit or premises caused by a household member or guest beyond normal wear and tear (normal wear and tear is defined as items which could be charged against the tenant's security deposit under state law or court practice). If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

The owner is responsible for all other HQS violations. The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis.

K. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family make any repair(s) or corrections within 30 days. If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing. The Section 8 Supervisor must approve extensions in these cases. The owner's rent will not be abated for items which are the family's responsibility. If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, & PAYMENT STANDARDS

INTRODUCTION

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This Chapter explains the PHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The Rent to Owner is limited only by rent reasonableness. The PHA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income. During the initial term of the lease, the owner may not raise the rent to the family.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, the PHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by the Occupancy Department to the owner each month. Checks may be picked up by the owner at the PHA. Checks will only be disbursed on the 15th and 30th of the month. Exceptions may be made in cases of hardship or because of a PHA error. Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA. Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

Late Payments to Owners

It is a local business practice in Lebanon County for property managers and owners to charge tenants a reasonable late fee for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically 5 days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the PHA must make housing assistance payments to the owner promptly and in accordance with the HAP contract. The PHA will pay a \$5.00 late fee to the owner for housing assistance payments that are not mailed to the owner by the 5th day of the month, if requested by the owner.

To assist the PHA in its outreach efforts to owners, and to provide better customer service, the PHA will offer to make automatic monthly HAP deposits into the bank account of the owner. If the owner agrees to such an arrangement with the PHA, the date the bank shows as the deposit date, will be the official date of record and will be the determining factor in cases involving late payment penalties.

The PHA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the PHA's control, such as a delay in the receipt of program funds from HUD. The PHA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty. The PHA will not use any program funds for the payment of late fee penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The PHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The PHA must re-determine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the PHA.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere. The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are zip codes, census tracts and municipal boundaries within the PHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area. The following items will be used for rent reasonableness documentation: size (number of bedrooms/square footage); location; quality; amenities (bathrooms, dishwasher, air conditioning, etc.); housing services; age of dwelling; dwelling type; maintenance; and utilities

Rent Reasonableness Methodology

The PHA maintains an automated database for use by staff in making rent reasonableness determinations. The automated system contains data on unassisted units and utilizes regression analysis to determine rent comparability. The data on comparable units is updated on an ongoing basis.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a voucher payment standard amount for each FMR area in the PHA jurisdiction. The established payment standard for each FMR area may be based on either the most recently published HUD jurisdiction wide FMR or the most recently published HUD small market FMR applicable to the relevant FMR area. The decision to utilize the jurisdiction wide or small market area FMR shall be based on the PHA's determination as to which standard is most likely to maximize unit availability for voucher participants. Within each distinct FMR area, the PHA will establish payment standard amounts for each unit size. The PHA may have a higher payment standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range. The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The PHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The PHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

The PHA will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

The PHA may establish a separate voucher payment standard, within the basic range, for designated parts in its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

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.

PHA Decision Point

The PHA will review the average percent of income that families on the program are paying for rent. If more than 40% of families are paying more than 30% of monthly adjusted income for a particular unit size, the PHA will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the PHA in this Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the payment standard.

Rent to Owner Increases

The PHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

Time to Locate Housing

The PHA may consider the average time period for families to lease up under the Voucher program. If more than 50% of Voucher holders are unable to locate suitable housing within the term of the voucher and the PHA determines that this is due to 50% of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the PHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served. For this purpose, the PHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

The PHA will retain a file for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the PHA must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation 24 CFR 982.503.

G. EXCEPTION PAYMENT STANDARDS FOR PROVIDING REASONABLE ACCOMODATIONS

The PHA is authorized to approve a payment standard of not more than 120 percent of the FMR without HUD approval as a reasonable accommodation by a family that includes a person with a disability.

The PHA must maintain documentation that shows:

A rent reasonableness analysis was conducted in accordance with HCV program regulations;

The family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation; and

The unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services or recreation.

H. OWNER RENT INCREASE

The owner is required to notify the PHA, in writing, at least sixty days before any change in the amount of rent is scheduled to go into effect. Any requested change in rent to owner will be subjected to rent reasonableness requirements. See 24 CFR 982.503.

Chapter 12

RECERTIFICATIONS

INTRODUCTION

In accordance with HUD requirements, the PHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Re-certifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the PHA's policy for conducting annual re-certifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are three activities the PHA must conduct on an annual basis: recertification of income and family composition; HQS Inspection; and rent to owner adjustment (following HUD requirements) These activities may be coordinated.

The PHA produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality, and factors related to Total Tenant Payment/Family Share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Occupancy Department.

B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be re-certified at least annually.

Moves Between Reexaminations

When families move to another dwelling unit an annual recertification will not be scheduled and the anniversary date will not be changed.

Reexamination Notice to the Family

The PHA will maintain a reexamination tracking system and the household will be notified by mail or email of the recertification process 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Completion of Annual Recertification

The PHA will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Collection of Information

The PHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The PHA representative will contact the family and review the information provided by the family on the recertification form. The head of household will be required to sign the recertification form.

Recertification Process

(Elimination of in person recertification interviews shall be effective with annual certifications with an effective date on or after September 1, 2010)

Annual certifications will ordinarily be conducted through the use of mail, email and telephone contact with the family. All families will be sent an annual certification form by mail or email which must be completed by the family, signed by the head of household and returned to the PHA by the deadline stated on the form. However, the PHA reserves the right to require a family to attend an in person interview when the PHA requires information from the family beyond that provided on the annual certification form. Persons with disabilities who are unable to complete the certification form will be granted an accommodation by conducting an interview by telephone or at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

Failure to Respond to Notification to Recertify

The written notification must state the date by which the family must return the annual certification form to the PHA. If the family fails to return the certification form by the deadline, and has not made prior arrangements for an extension of the deadline, the PHA will send family a notice of termination and offer them an informal hearing

The Section 8 Supervisor may make exceptions to these policies if the family is able to document an emergency situation that prevented them from returning the certification form by the deadline or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the PHA will include instructions for the family to bring to the interview documentation of all assets as well as documentation of any deductions/allowances.

Verification of Information

The PHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old.

Tenant Rent Increase

If tenant rent increases, a thirty day notice is mailed to the family prior to the scheduled effective date of the annual recertification. If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the PHA.\

C. STREAMLINED ANNUAL REEXAMINATION FOR FIXED SOURCES OF INCOME

This provision provides for a streamlined income determination for any family member with a fixed source of income. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this section, the term “fixed-income” includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts

must be obtained.

The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously.

In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, *third-party verification of all income amounts for all family members must be performed at least every three years*. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third party verification of *all* income amounts. This also means that if a family member with a fixed income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant’s first reexamination following PHA’s adoption of provision.

	Under previous regulation	Under this regulation
January 2019 — baseline year	<p>Carl’s income consists of 90% fixed sources and 10% nonfixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)

<p>January 2019</p>	<p>Carl's income consists of 90% fixed sources and 10% nonfixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% nonfixed sources</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only as a result of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification</p>
<p>January 2020</p>	<p>Carl's income consists of 90% fixed sources and 10% nonfixed sources.</p> <p>The PHA must verify all income amounts using third party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% nonfixed sources</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant provided third party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third party verification</p>

January 2021 Carl's income consists of 90% fixed sources and 10% nonfixed sources. Carl's income is reported to be 90% fixed sources and 10% nonfixed sources. The PHA must verify all income amounts using third-party verification.

The PHA must verify all income amounts using third-party verification.

D. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain PHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The PHA will conduct a reexamination to determine such additional income and will

make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Increases in Income

Families will not be required to report an increase in an existing source or a new income source to the PHA between annual re-examinations.

Decreases in Income

Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The PHA must calculate the change if a decrease in income is reported.

PHA Errors

If the PHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

E. OTHER INTERIM REPORTING ISSUES

An interim re-examination does not affect the date of the annual recertification. An interim reexamination will be scheduled for families with zero income three times per year. At the PHA's discretion interim re-examinations may be conducted by mail.

F. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of: fraud; or failure to participate in an economic self-sufficiency program; or noncompliance with a work activities requirement

However, the PHA will reduce the rent if the welfare assistance reduction is a result of: the expiration of a lifetime time limit on receiving benefits; or a situation where the family has complied with welfare program requirements but cannot or has not obtained employment

The PHA will notify affected families that they have the right to an informal hearing regarding these requirements.

G. NOTIFICATION OF RESULTS OF RECERTIFICATIONS

The Notice of Rent Change will be mailed or emailed to the owner and the tenant. Signatures are not required by the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

H. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)

Standard for Timely Reporting of Changes

The PHA requires that families report interim changes to the PHA within 30 days of when the change occurs. Any information, document or signature needed from the family that is needed to verify the change must be provided within 30 days of the change. If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The PHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported.

The change may be implemented based on documentation provided by the family, pending third-party written verification.

Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and will be required to sign a Repayment Agreement or make a lump sum payment..

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

Procedures when the Change is Not Processed by the PHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date the change is not processed by the PHA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the PHA.

If the change resulted in a decrease, the overpayment by the family will be calculated

retroactively to the date it should have been effective, and the family will be credited for the amount.

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

The Noncitizens rule was implemented prior to November 29, 1996, and "Mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria: the head of household or spouse is a U.S. citizen or has eligible immigrant status; AND all members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

Chapter 13

MOVES WITH CONTINUED ASSISTANCE & PORTABILITY

A. BACKGROUND

One of the key features of the HCV program is the mobility of the assistance. Regulations at 24 CFR § 982.353 provide that HCV participants may choose a unit that meets program requirements anywhere in the United States, provided that a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. Moves with continued assistance can occur both inside and outside of the PHA's jurisdiction. The term "portability" refers to the process of leasing a dwelling unit with tenant based HCV assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). The PHA that receives the family that has ported from the initial PHA's jurisdiction is called the receiving PHA. When a family moves under portability, the receiving PHA may choose to absorb the family into its own program or bill the initial PHA.

Program regulations covering moves with continued tenant-based assistance, where a family may move, and the responsibilities of the initial PHA and the receiving PHA are found at 24 CFR §§ 982.353 through 982.355. The following sections provide detailed guidance on the portability process and present changes made in regulation as a result of publication of the final portability rule. Regulatory changes on suspension of the term of the voucher and family briefings are also presented below.

B. FAIR HOUSING AND EQUAL OPPORTUNITY REQUIREMENTS

PHAs must administer their HCV program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR § 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. The PHA must also affirmatively further fair housing in accordance with its certification pursuant to 24 CFR § 903.7(o). If the PHA has completed an Assessment of Fair Housing conducted in accordance with the requirements of the Affirmatively Furthering Fair Housing rule at 24 CFR §§ 5.1505.180, the PHA must certify that it will affirmatively further fair housing in accordance with 2015 revisions to 24 CFR 903.7(o) made by the AFFH final rule at 80 FR 42272-42371 (July 16, 2015). Under the July 16, 2015 revision, the PHA's certification that it will affirmatively further fair housing requires that it will (1) take meaningful actions to further the goals identified in its AFH, (2) that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and (3) that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). If the PHA has not yet completed an Assessment of Fair Housing, the PHA must affirmatively further fair housing in accordance with its certification pursuant to 24 CFR 903.7(o) as implemented prior to July 16, 2015. See 24 CFR 5.151, 5.160(a)(3). Under this version of 24 CFR 903.7(o) that existed before

July 16, 2015, a PHA must certify that it will affirmatively further fair housing by (1) examining its programs or proposed programs, (2) identifying any impediments to fair housing choice within those programs, (3) addresses those impediments in a reasonable fashion in view of the resources available, (4) works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and (5) maintains records reflecting these analyses and actions, with some limited exceptions found in 24 CFR 903.2(b)(2). Affirmatively furthering fair housing under either scenario includes helping families use their vouchers to move from segregated to integrated areas, from racially or ethnically concentrated areas of poverty (R/ECAPs), and from areas with disparities in access to opportunity within its jurisdiction and through portability moves outside of the jurisdiction. See 24 CFR 982.53 for the equal opportunity requirements for the HCV program.

Questions relating to fair housing and equal opportunity requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/fheodir.

1. Reasonable Accommodations

Notwithstanding any other provision of this notice, PHAs must consider requests for reasonable accommodations that are necessary for a qualified individual with a disability to benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, title II of the Americans with Disabilities Act and HUD's implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130). An individual with a disability can request a reasonable accommodation to any rules, policies, practices or services at any time. This may arise, for example, when a request to move is due to a disability of a family member. This provision applies even if a family might otherwise be restricted from moving (e.g., under a "one move per year" policy or because of insufficient funding). The reasonable accommodation determination is made on a case-by-case basis.

In cases where the limitation on portability is a discretionary policy of the PHA, the PHA must grant the accommodation unless doing so would impose an undue financial and administrative burden to the PHA. In cases where the limitation on portability is compelled by regulation, the PHA must first assess whether the requested accommodation would impose an undue financial and administrative burden. If this assessment confirms no undue burden, the PHA must request a waiver of the regulatory provision from HUD.

In cases where a PHA determines it has insufficient funding to allow a move (provided that all of the requirements of section 7 of this notice are met) the PHA must consider a request for a reasonable accommodation, but may, where the individual facts warrant, determine that allowing the move would pose an undue financial and administrative burden to the PHA. Such determination is subject to review by the local HUD office, as well as by the HUD Office of Fair Housing and Equal Opportunity in the event a complaint is filed alleging a failure to grant a reasonable accommodation.

With respect to voucher extensions of time, both receiving and initial PHAs should consider that individuals with disabilities and families that include a member with a disability may require additional time to locate a suitable unit. Such households may also request an extension of time as a reasonable accommodation. Reasonable accommodation requests could also be made in the following areas: requesting that specific receiving PHA policies are provided to the family under the explanation of how portability works, requesting additional details about a receiving PHA when selecting the receiving PHA, and requesting a larger unit size.

2. Limited English Proficiency (LEP) & Effective Communication with Individuals with Disabilities.

In communications and making written information available to families (including Appendix B below), PHAs must ensure that such information is available in appropriate languages to ensure access for persons with LEP. See HUD's LEP guidance at http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf. For further information regarding LEP requirements, see www.lep.gov.

PHAs must also ensure that communications and materials are provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and their implementing regulations. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, *e.g.*, Braille, audio, large type, assistive listening devices, and sign language interpreters. See Section 504 requirements regarding effective communication requirements for persons with disabilities in 24 CFR 8.6 and ADA Title II requirements at 28 CFR Part 35, Subpart D. In addition, for more information regarding effective communication requirements under the ADA, which are similar to the requirements under Section 504, see the U.S. Department of Justice's Effective Communication guidance at <http://www.ada.gov/effective-comm.htm>.

C. FAMILY BRIEFING

When a family is first selected to participate in the HCV program, regulations require that the PHA give the family an oral briefing and an information packet, which include information on a specific set of subjects listed in regulation. The following paragraphs focus only on changes to the required contents of family briefings resulting from publication of the final portability rule. The full list of required oral briefing subjects can be found at 24 CFR § 982.301(a), and the full list of required briefing packet subjects at 24 CFR § 982.301(b). PHAs must make any necessary revisions to their current materials and to the delivery of the oral briefing to comply with the changes described below.

1. How Portability Works.

Regulations require that an explanation of how portability works is provided as part of both the oral briefing and the briefing packet to all families, not just to those families who are eligible to move under portability. Also, PHAs must explain to families who elect to move under portability how differences in the receiving PHA policies may affect the family's assistance through screening criteria, subsidy standards, payment standards and any other elements of the portability process which may affect the family's assistance. For example, the receiving PHA might have more stringent policies related to screening for criminal backgrounds which may impact the family's assistance.

PHAs are generally not required to research and provide families with specific receiving PHA policies. Instead, the requirement is for initial PHAs to make the family aware that the receiving PHA's policies may be different and how that may impact the family's assistance.

See Appendix B for a sample "how portability works" handout. This is meant to serve as a tool that may be used by PHAs in meeting this requirement. PHAs are not required to use Appendix B.

2. Advantages of Moving to Areas with Low Concentrations of Low Income Families.

HCV regulations now require that an explanation of the advantages of moving to an area that does not have a high concentration of low income families be provided to all families, not just to families currently living in high-poverty census tracts. This explanation is to be provided as part of the oral briefing and the information packet. PHAs no longer need to identify whether a family lives in a high-poverty census. For purposes of this section, PHAs may follow HUD's definition of Concentrated Areas of Poverty under the AFFH Tables and Mapping Tool (see section 4.e below for the definition).

PHAs may use research that shows positive outcomes on voucher families who move to low poverty areas, to prepare materials and in delivering information on the advantages of moving to areas with low concentration of low income families. For example, research has shown that moving to areas of low-poverty concentration has strong positive physical and mental health effects. Research has also shown that those families who lived in low-poverty neighborhoods for a longer period had an increased likelihood of finding employment and having higher incomes, and their children also had higher scores in school and were more likely to enroll in college.

The following research papers/reports include some of the resources available to PHAs:

“The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates” (Raj Chetty and Nathaniel Hendren, 2015) and *“The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment”* (Raj Chetty, Nathaniel Hendren, and Lawrence Katz, 2015): these studies show how neighborhoods affect upward mobility of low-income children and find that every year of exposure to a better environment improves a child’s chances of success. <http://www.equality-of-opportunity.org/index.php/executive-summaries>.

“Benefits of Living in High-Opportunity Neighborhoods” (Urban Institute, 2012): this brief analyzes and discusses findings from HUD’s Moving to Opportunity (MTO) demonstration. <http://www.urban.org/research/publication/benefits-living-high-opportunityneighborhoods>.

HUD’s MTO demonstration: tested the long-term benefits of helping poor families move from severely distressed housing projects to low-poverty neighborhoods. http://www.huduser.org/publications/pdf/MTOFHD_fullreport_v2.pdf.

3. Information on Selecting a Unit

Regulations require that any information that HUD makes available on how to select a unit is provided as part of the oral briefing and the briefing packet. Besides the HUD brochure “A Good Place to Live” there is currently no other HUD provided information on this topic. HUD will notify PHAs if such information is made available in the future.

4. Voucher Term

In previous regulation, the PHA was required to explain (as part of the briefing packet) the term of the voucher, and the PHA’s policies on extension or suspension of the voucher term. The PHA is still required to include information in the briefing packet about the term of the voucher, extensions, and voucher suspension. However, the information on voucher suspension must no longer be presented as a PHA policy because current regulation mandates voucher suspension. Instead, the briefing packet must be revised to explain how voucher suspension works under current regulation.

5. List of Landlords or Other Resources

Regulations require that a list of landlords known to the PHA who may be willing to lease a unit to the family, or other resources known to the PHA that may assist a family in locating a unit, is provided to families as part of the briefing packet. Generally, this list may include only resources, or only landlords, or both.

PHAs whose jurisdiction includes areas of poverty or minority concentration must ensure that the list covers areas outside of poverty or minority concentration. To meet this requirement, PHAs must do the following:

Conduct outreach to landlords within the PHA's jurisdiction with properties outside areas of minority or poverty concentration, so as to develop relationships with such landlords, market the advantages of participating in the HCV program (e.g., the PHA guarantees a portion of the rent), and increase their interest in participating in the program.

Include resources that will assist voucher holders in finding units outside areas of minority or poverty concentration, as part of the list. A list of resources is below.

Consistent with their obligations to affirmatively further fair housing, PHAs are expected to ensure that the list also covers areas outside of R/ECAPs, integrated areas, and areas providing access to opportunity. PHAs may conduct the activities described above in taking steps to ensure that the list covers these areas.

Data/Mapping Tools: PHAs have two options for determining whether an area is a poverty or minority concentrated area:

HUD's Data and Mapping Tool provides maps and tables at the jurisdictional (CDBG, HOME, and ESG jurisdictions) and regional level. PHAs can select the CDBG jurisdiction(s) that best approximates the PHA's jurisdiction for the HCV program and produce maps that show where HCV participants are living and how that relates to poverty or minority concentration in the community, R/ECAPs, the location of other assisted housing, segregated and integrated areas, and access to proficient schools, jobs, and transportation. The maps show the census tracts boundaries within a given jurisdiction and highlights those census tracts within a jurisdiction or region that are R/ECAPs. PHAs may overlay neighborhood maps of their jurisdictions to see how the tract boundaries overlap with neighborhoods in the community. HUD's AFFH Data and Mapping Tool and User Guide can be found on HUD's website at the following address: <https://www.hudexchange.info/resource/4867/affh-data-and-mapping-tool/>.

The Federal Financial Institutions Examination Council's (FFIEC) Geocoding/Mapping System <https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx> provides information for specific addresses on MSA median family income, census tract median family income, tract percentage below the poverty line, tract minority population, tract minority percentage, and related topics.

Definition of R/ECAPs: HUD's AFFH Data and Mapping Tool defines R/ECAPs as:

- Tracts with a non-white population of 50% or more (20% or more for non-metro areas), and

- Tracts with a poverty rate of more than 40% or at least 3 times the average tract poverty rate for the metropolitan/micropolitan area, whichever is lower.
-

Resources: Resources that may assist voucher holders in finding units outside areas of minority or poverty concentration include, but are not limited to:

- Information on how to use Zillow, Craigslist, and other search tools used by mainstream renters.
- Mobility counseling resources, either managed by the PHA or by another organization such as a HUD-assisted housing counseling agency. A list of HUD approved housing counseling agencies, searchable by whether they provide mobility and relocation counseling, can be found at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>.

These same resources may also be used to assist voucher holders in finding units outside R/ECAPs, segregated areas, and areas with disparities in access to opportunity.

Questions about which areas the list must cover to meet fair housing requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/headir.

D. SUSPENSION OF THE TERM OF THE VOUCHER

During the initial or extended term of the voucher, the family is required to submit a Request for Tenancy Approval (Form HUD-52517). The term of the voucher is suspended starting when the Request for Tenancy Approval is submitted to the PHA until the PHA notifies the family in writing whether the assisted tenancy has been approved or denied. This provision applies to all families who are leasing a unit (not just to families under portability). Suspension applies even if a family that submits a Request for Tenancy Approval decides to cancel such request. In such cases, the suspension ends when the PHA learns of the cancellation. Under portability *procedures*, the requirement to suspend the term of the voucher applies to the receiving PHA only. See section M(2) below for more information on the impact of suspension on the initial billing deadline.

E. DENYING FAMILY REQUESTS TO MOVE

This section outlines the process for denying a family's request to move, including when the PHA may deny a family's request to move, when the PHA must deny the family's request to move, and Violence Against Women Act (VAWA) requirements. See section F below for additional details on denying families' request to move due to insufficient funding.

1. Mandatory Denial of a Family Request to Move. PHAs must deny the move for applicants who are not income eligible in the receiving PHA's jurisdiction. Moves must also be denied for families that have moved out of their assisted unit in violation of the lease. See Section 3 below for exceptions under VAWA.

2. Discretionary Denial of a Family Request to Move. PHAs may deny a family's request to move under the following program regulations:

- (1) The family's action or failure to act as described in 24 CFR § 982.552 or 982.553.
- (2) The request to move does not comply with the PHA's policies on the timing and frequency of moves in accordance with 24 CFR § 982.354(c)(2). These policies include prohibiting any move by the family within the initial lease term and prohibiting more than one move by the family during any one-year period. A PHA must not establish a policy that restricts families from moving only at the time of their annual reexamination. These policies must be consistent with applicable civil rights laws and regulations. See section 3 above.
- (3) The PHA has insufficient funding for continued assistance in accordance with 24 CFR § 982.354(e)(1). See section 7 below for more information.
- (4) The family is a non-resident applicant and is requesting to port. Nonresident applicants have no right to move under portability for 12 months from the time the family is admitted to the HCV program. See 24 CFR § 982.353(c) for the definition of nonresident applicant and other provisions. Initial PHAs may allow the move before the end of this 12 month period.

3. Violence Against Women Act (VAWA). As previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is, or has been, the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently

threatened by harm from further violence if he or she remained in the assisted dwelling unit. The final rule, HUD Programs, VAWA Conforming Amendments, was published in the *Federal Register* on October 27, 2010. The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) expanded protections to victims of sexual assault. More information on these expanded protections can be found in the “VAWA 2013: Overview of Applicability to HUD Programs” Federal Register Notice, 78 FR 47717, August 6, 2013.

If the circumstances described above exist, the PHA may allow a family to move if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family (victim) document or provide written evidence to demonstrate that the violence occurred.

The family has the option of either submitting the HUD-approved certification form (Form HUD50066¹) OR third-party documentation, such as:

(1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or

(2) Documentation signed by the victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 CFR part 5, subpart L.

F. DENYING FAMILY REQUESTS TO MOVE – INSUFFICIENT FUNDING

This section outlines when PHAs may deny moves due to insufficient funding, and describes the steps PHAs must take to deny moves for this reason, including notifying the local PIH field office, establishing policies that address denial of family moves due to insufficient funding, and consequences for improper denial of requests to move due to insufficient funding. This section also provides guidance for how PHAs determine and document the determination of insufficient funding.

If a PHA approves a family’s request to move and then subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family would be allowed to remain in its current unit. If the family cannot remain in the unit (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) the PHA must not rescind the voucher. The family must be allowed to lease a

new unit. This requirement applies to moves within the PHA's jurisdiction and to portability moves.

An initial PHA may not terminate a portability voucher under a billing arrangement with a receiving PHA for insufficient funding because the initial PHA is not a party to the HAP contract. Initial PHAs may not impose a cap on the amount of HAP they will pay for a family that has moved under portability.

1. When a PHA May Deny a Move Due to Insufficient Funding. A PHA may only deny a request to move due to insufficient funding if all of the following applies:

- (1) The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves). See definitions below.
- (2) The receiving PHA is **not** absorbing the voucher (applicable only to portability moves).
- (3) The PHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

Higher cost unit: is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit. A PHA **may not** deny requests to move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family.

Higher cost area: is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA (e.g. the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). A PHA **may not** deny requests to move due to insufficient funding if the area the family has selected is not a higher cost area.

A PHA may not deny a family request to move under portability if the receiving PHA has confirmed that they will absorb the family into their program. In such cases, the initial PHA has no grounds to deny the portability move under 24 CFR § 982.354(e)(1).

The PHA **must not** deny the move for families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g. the unit failed HQS, the owner failed to renew the lease, etc.). If the family is moving under portability, the PHA may deny the move under these circumstances if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.

A PHA may not deny a family's request to move due to insufficient funding because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available to do so. If the PHA denies a family's request to move, it

may not subsequently admit families from its waiting list to its HCV program until families with open requests to move (based on PHA policy) are processed. See section 7.d below for more information on PHA policies addressing denial of family moves for insufficient funding.

2. Notifying the Local PIH Field Office. The PHA is required by regulation to provide written notification to the local PIH field office within 10 business days of the date on which the PHA determines it is necessary to deny family moves due to insufficient funding. Only one notification per calendar year is required and it must include the following:

- (1) A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. See section F3 below for more information.
- (2) A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves is in place.
- (3) A copy of the PHA's policy stating how the PHA will address families who have been denied moves. The requirements of the policy are described in section F4 below.

PHAs do not need prior HUD approval to deny a family move for insufficient funding, subject to section 7.e below.

3. Determining Whether There Is Sufficient Funding. In projecting whether there is sufficient funding available for the remainder of the calendar year, PHAs may make reasonable estimates to factor in conditions such as pending rent increases that would affect the subsidy and the attrition rate for families leaving the program. PHAs **may not** include projected costs for vouchers issued to families from the waiting list but not yet leased as part of this analysis. Vouchers issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. The initial PHA may consider any reported changes in the family's income or composition that may result in a decreased subsidy amount.

A two-year forecasting tool is available on HUD's website at the following address: <http://www.hud.gov/offices/pih/programs/hcv>. This tool is designed to assist PHAs in determining if sufficient funding is available to support a move and is helpful in demonstrating the PHA's determination that sufficient funding is not available. PHAs are not required to use this tool and may choose to use other tools of their own.

4. PHA Policies Addressing Denial of Family Moves For Insufficient Funding. The PHA must establish policies in its Administrative Plan that state how the PHA will address families whose request to move are denied due to insufficient funding once the PHA determines funds are available for those moves. At a minimum, the PHA policy must address:

- (1) How the PHA will inform families of the PHA's local policy regarding moves denied due to insufficient funding (e.g. information contained in briefing packets or in a letter to the tenant at the time the move is denied).
- (2) How long the family's request to move will be open for consideration.
- (3) How the PHA will notify families with open requests when funds become available (which should be no later than January 1st of the following calendar year).

5. Improper Denial of Requests to Move. If HUD determines that the PHA lacks grounds to deny moves due to insufficient funding, the PHA must immediately inform any affected family and immediately process the family's request to move, regardless of PHA policies as described in section 7.d above. HUD may impose sanctions on PHAs that improperly deny a family's request to move due to insufficient funding. Such sanctions may include a reduction of the PHA's administrative fee of up to 10 percent for the two quarters following the quarter that HUD identified the improper denial. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during this period). HUD will consider the circumstances of the particular case in making this determination. Should HUD determine to apply such sanction, the PIH field office with jurisdiction over the PHA will inform the PHA by letter and will send a copy to HUD's HCV FMC and HCV FMD to implement the administrative fee reduction. The general policy described in the preceding paragraph in no way restricts HUD from exercising additional remedial actions or imposing sanctions for PHAs that have improperly denied families' request to move due to insufficient funding.

G. PORTABILITY – USE OF EMAIL OR OTHER DELIVERY CONFIRMATION METHOD

Regulations require the use of email or other delivery confirmation methods for communications between the initial and receiving PHA. HUD supports email as the preferred method of communication. This requirement applies to all communications between receiving and initial PHAs referenced in this notice. PHAs are encouraged to establish a generic portability email, and controls for the management of such mailbox, to avoid misplacement of portability emails due to staffing changes at the PHA.

An initial PHA must have a signed and valid HUD-9886 "Authorization for the Release of Information Privacy Act" on file before transmission of income verification information obtained through the Enterprise Income Verification (EIV) system. See PIH Notice 2012-4 "Effective Use of the EIV System" for more information. Also see PIH Notice 2015-6 "Privacy Protection Guidance for Third Parties" for information on requirements for transmittal of Personally Identifiable Information (PII) via email.

H. PORTABILITY – INITIAL PHA PROCESSING RESPONSIBILITIES

This section outlines the responsibilities of initial PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA's responsibilities, is found in sections J-M of this chapter.

1. Determining HCV Program Eligibility of Applicant Families that are Requesting to Port. The initial PHA determines if the family is eligible for participation in the HCV program, including whether the family is income eligible in the area to which the family wishes to move.

The initial PHA determines HCV program eligibility **only** if the family is an applicant family (the family is not currently an HCV program participant). If the family meets all HCV eligibility criteria but is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to that area with continued HCV assistance. But the family may lease a unit in the initial PHA's jurisdiction if the family is HCV eligible (including income eligible) in the initial PHA's jurisdiction.

The receiving PHA's income limits are used in determining income eligibility. Initial PHA policies applicable to determination of family eligibility are used for all other eligibility criteria. See 24 CFR § 982.201 for more information on eligibility criteria for the HCV program.

2. Determining Eligibility to Move. Once a family informs the initial PHA of their desire to move under portability and where they want to move to, the initial PHA determines the family's eligibility to move. A family's eligibility to move is determined in accordance with 24 CFR § 982.353 and 24 CFR § 982.354. See sections N and O below for more information on denying family moves.

3. Selecting the Receiving PHA. If more than one PHA administers a voucher program in the area to which the family is moving, the family selects the receiving PHA. The initial PHA must provide the family with the contact information for all of the receiving PHAs that serve the area. The initial PHA may, but is not required to, provide more details about the receiving PHAs (such as whether the receiving PHA administers an FSS or a homeownership program). If the family requests it, the initial PHA must select the receiving PHA. If the initial PHA is selecting the receiving PHA per the family's request, the initial PHA is not required to provide the contact information for all receiving PHAs in the area.

Initial PHAs may determine whether there is more than one receiving PHA in the area to which the family wishes to move by searching in the PHA contact list on HUD's website at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts.

If the initial PHA is unable to ascertain whether there is more than one receiving PHA from this list, the initial PHA may contact a receiving PHA or the local PIH field office in the area to which the family wishes to move to gather more information.

4. Contacting the Receiving PHA. Once the receiving PHA is selected, regulations require that the initial PHA contact the receiving PHA to determine whether the receiving PHA will bill or absorb the family's voucher. It is the responsibility of the initial PHA, not the family, to contact the receiving PHA to determine whether the receiving PHA will bill or absorb. This information may be critical in determining whether the initial PHA approves or denies the portability request. See sections 15 and 16 below for more information on denying family moves.

5. Voucher Issuance. Once the portability request is approved, the initial PHA issues the family a voucher, if it has not already done so.

6. Advising the Family How to Contact the Receiving PHA. Once the receiving PHA has been selected and the portability request approved, the initial PHA also advises the family how to contact and request assistance from the receiving PHA. The initial PHA may do so by providing the family with the name, telephone number, and email of the receiving PHA's staff responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA. Simply referring the family to HUD or to a website for information on the receiving PHA does not fulfill the responsibilities of the initial PHA under the program regulations. Initial PHAs may fulfill this requirement by providing this information to families during the process of selecting the receiving PHA as described in Section H(3) above.

7. Notifying the Receiving PHA. Per regulation, the initial PHA promptly notifies the receiving PHA to expect the family by contacting the receiving PHA on the family's behalf. Initial PHAs may fulfill this requirement during their initial contact with the receiving PHA to determine whether the voucher will be billed or absorbed, or as part of a separate communication with the receiving PHA.

8. Providing the Portability Information. The initial PHA must send the receiving PHA the documents listed below. Initial PHAs are encouraged to provide this information when contacting the receiving PHA to notify them that the family is approved to port to the receiving PHA jurisdiction. See Section G above for more information on requirements for transmittal of PII.

- (1) Form HUD-52665. The initial PHA completes and sends Part I of this form to the receiving PHA.
- (2) The most recent HUD Form-50058 (Family Report) for the family. Note that in the case of an applicant family, the initial PHA has not yet completed the HUD-50058 in its entirety because the family is not yet a new admission. See section 18 below for more information on PIC data entry and page 70 of the Form HUD-50058 Instructions Booklet for sections to be completed at the time of voucher issuance. The initial PHA must provide the partially completed HUD-50058 for the applicant family to the receiving PHA. And, income information in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.
- (3) All related verification information.
- (4) A copy of the voucher signed by the participant and the PHA.

9. Special Purpose Vouchers. The initial PHA must submit any special purpose voucher codes (i.e., HUD-VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058. Initial PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice "*Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program.*" This FR notice can be found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/20127081.pdf>. While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address: http://portal.hud.gov/hudportal/documents/huddoc?id=fupfaqs_dec2012.pdf. And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

I. PORTABILITY – RECEIVING PHA PROCESSING RESPONSIBILITIES

This section outlines the responsibilities of receiving PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA's responsibilities, is found in sections J-M of this notice. Also, see section J for more information about the receiving PHA's responsibilities after a portability family has leased a unit in its jurisdiction.

1. Requirement to Administer Assistance. The receiving PHA cannot refuse to assist an incoming family or direct them to a neighboring PHA for assistance. This includes having a policy of denying an incoming portability family if there is not a set number of days left on the initial PHA's voucher. Receiving PHAs may not have such a policy.

Under certain circumstances, HUD may exempt a receiving PHA from the requirement to assist an incoming portability family. The receiving PHA can only refuse to assist a portability family after receiving written approval from HUD. The receiving PHA initiates requests to deny administration of portability vouchers by sending a written request to the Director of the local PIH field office. The request must, at a minimum, address the circumstances that prevent the receiving PHA from processing incoming portability families, including any documentation supporting the request. The local HUD office, at its discretion, may request additional information deemed necessary to process the request. The local PIH field office Director will render a decision in writing to the PHA within 30 days from receipt of the PHA's request. Such requests are meant only for extreme circumstances, such as when the receiving PHA is in a presidentially declared disaster area. Also, see the exception discussed in section 10.b below.

2. Denial or Termination of Assistance. Receiving PHAs may rescreen families who have moved into their jurisdiction under portability by applying their own policies for denial or termination of assistance under HCV regulations at 24 CFR § 982.552 or 24 CFR § 982.553. For example, the receiving PHA may have a policy to terminate or deny HCV assistance if any member of the family has been evicted from federally-assisted housing in the last 5 years. The receiving PHA may refuse to assist a portability family by referring the family back to the initial PHA, or terminate the family's HCV participation, on any of the grounds in 24 CFR § 982.552 or 24 CFR § 982.553. The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed. However, receiving PHAs may take subsequent action against the family (as explained in the preceding sentence) based on the results of the rescreening.

Receiving PHAs do not need prior HUD approval to refuse portability assistance in these cases because they are authorized under regulation to deny the move in accordance with their screening policies. This is because the regulatory meaning of both denial of assistance (applicants) and termination of assistance (participants) specifically includes refusing to process or provide assistance under the portability procedures. If the receiving PHA refuses the portability move, the initial PHA is not precluded from assisting the family either in the initial PHA jurisdiction or by allowing the family to port to another receiving PHA's jurisdiction in accordance with the portability procedures.

PHAs must ensure that any admissions or occupancy requirements they impose comply with applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR § 5.105. In using admissions

or occupancy requirements that relate to the use of criminal background, PHAs must also ensure that such requirements are consistent with Notice PIH 2015-19 (Nov. 2, 2015), *Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions*, at <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

If the receiving PHA takes action against the family as described in the preceding paragraphs, the receiving PHA is required to provide the ported family with the opportunity to request an informal hearing (if the family is a participant) or an informal review (if the family is an applicant) in accordance with 24 CFR § 982.554 or 982.555. The participant/applicant status of the family is identified by the initial PHA under the Certification Statement under Part I of form HUD 52665.

3. Responding to the Initial PHA. Once the initial PHA contacts the receiving PHA to inquire whether the receiving PHA will bill or absorb, the receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry. **If the receiving PHA notifies the initial PHA that they will absorb the voucher, the receiving PHA cannot reverse its decision at a later date without the initial PHA's consent.** This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease, vacated their assisted unit, and moved to the new jurisdiction at risk of losing their assistance.

4. Expired Initial PHA Voucher. If the initial PHA's voucher has already expired when the family arrives at the receiving PHA, regulations require the receiving PHA to contact the initial PHA to determine whether it will extend the voucher term. If the initial PHA extends the voucher, the receiving PHA processes the ported family and the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline (see section 10.f below for an example of this policy). An informal hearing is not required when a voucher has expired without the family leasing a unit. This is because regulations at 24 CFR 982.555(b) do not require an informal hearing for a PHA determination not to approve an extension of a voucher term. In determining whether to grant an extension of the voucher term, PHAs must follow their own policies as addressed in their HCV administrative plan.

5. Determining the Unit Size. The receiving PHA is required by regulation to determine the family unit size for the family, and base its determination on its own subsidy standards.

6. Voucher Issuance. After receiving the form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA's jurisdiction. HUD expects the receiving PHA to process the family's paperwork and issue the family a voucher within two weeks of receiving the HUD-52665 and supporting documentation provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

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. For example, if the initial PHA's voucher expires 10/30/2016, the receiving PHA's voucher may not expire before 11/29/2016.

If the initial PHA extends the term of the voucher as explained in section 10.d above, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher. For example, if in the example in the preceding paragraph the initial PHA extends the voucher until 11/30/2016 the receiving PHA voucher may not expire before 12/30/2016. Receiving PHAs may extend the voucher beyond this additional 30 days (see section 10.g below on voucher extensions).

The receiving PHA may delay issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures. In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR § 982.554 or 982.555.

7. Voucher Extensions. The receiving PHA may subsequently extend its own voucher's term. Any extensions of search time provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. **The receiving PHA is required by regulation to inform the initial PHA of any extensions of the voucher term.**

When extending the voucher, receiving PHAs should consider the billing deadline (see section M(2) below for billing deadline information). The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a Request for Tenancy Approval, execute the HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) of the initial billing. If the initial billing is not received by the initial PHA by the deadline date, the receiving PHA will have to absorb the voucher unless the initial PHA accepts the late billing.

8. Reexaminations. Receiving PHAs may choose to conduct a new income reexamination for a participant family. In such cases, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action against the family based on the results (e.g., recalculating the HAP payment based on updated income information).

In the case of an applicant family, the receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to re-determine income eligibility. For example, if the applicant family initially reported they had no earned income but they subsequently obtain new employment, the receiving PHA shall re-determine income eligibility for the

applicant family to ensure the family is income eligible in the receiving PHA's jurisdiction. As a reminder, the receiving PHA does not re-determine income eligibility for a portable family that was already receiving voucher assistance.

9. Family Decides Not to Lease in the Receiving PHA's Jurisdiction. If an incoming family ultimately decides not to lease in the jurisdiction of the receiving PHA, the receiving PHA must refer the family back to the initial PHA. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA's policies apply. Any extensions of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction.

10. Notifying the Initial PHA. Regulations require the receiving PHA to 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 voucher.

11. Absorption of the Ported Voucher. The receiving PHA may absorb the family into its own program provided it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year.

Although a receiving PHA notifies the initial PHA of its intent to absorb an incoming family early in the portability process, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction. False processing of portability paperwork (sham portability moves) to address a PHA's utilization or leasing problems is prohibited. If the family does not move to a different unit and is not placed under a HAP contract in the receiving PHA's jurisdiction, the receiving PHA cannot absorb the family.

The receiving PHA may also absorb a family for which it was billing by terminating the billing arrangement with the initial PHA. In such cases, the receiving PHA must send form HUD52665 to the initial PHA. The receiving PHA selects option 8 under Part II-B of such form. See section 16 below for more information.

J. PORTABILITY – RECEIVING PHA ONGOING

This section outlines the ongoing responsibilities of receiving PHAs once a ported family leases a unit in the receiving PHA's jurisdiction.

1. Special Purpose Vouchers. The receiving PHA must maintain any special purpose voucher codes (i.e., VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058 as long as it is billing

for the family. Receiving PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice "*Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program.*" This FR notice can be found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/20127081.pdf>. While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address:

http://portal.hud.gov/hudportal/documents/huddoc?id=fupfaqs_dec2012.pdf. And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

2. Updated Form HUD-50058. The receiving PHA must send the initial PHA a copy of the 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. Receiving PHAs send the updated HUD-50058 regardless of whether there is a change in the billing amount. A copy of Form HUD-50058 must also accompany the submission of a portability form (HUD-52665) reporting any changes in the billing amount. See Section M(5) for more information.

The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days following the effective date of the reexamination. Receiving PHA's are strongly encouraged to send the updated form as soon as the family's reexamination is complete. 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.

3. Failure to Send the Updated Form HUD-50058. If the receiving PHA fails to send the updated form 50058 on time, the initial PHA must continue paying the receiving PHA based on the last Form HUD-50058 received, unless instructed otherwise by HUD. Initial PHAs should make a first attempt at resolving any late submissions of the updated form 50058 with the receiving PHA. Should such attempts fail to result in a resolution, initial 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 initial PHA may seek absorption of the vouchers in question by

following the steps below. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.

- (1) The initial PHA may request absorption of the vouchers in question by memorandum to their local PIH field office Director. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached to the memorandum. A copy of the memorandum must be sent to the receiving PHA.
- (2) The local PIH field office will notify the local PIH field office with jurisdiction over the receiving PHA within 15 business days of receiving the initial PHA's memorandum.
- (3) The local PIH field office with jurisdiction over the receiving PHA will provide the receiving PHA with 15 business days to respond and provide any supporting documentation if the receiving PHA is contesting the initial PHA's request.
- (4) The initial PHA's local PIH field office will send a letter to the initial and receiving PHA within 15 business days from the date the receiving PHA's response was due indicating whether the initial PHA's request was approved. A copy of the letter must be sent to the receiving PHA's local PIH field office. Both PIH field offices will work together in making a final determination. If the two PIH field offices cannot agree on a decision, they should contact their respective regional director(s) for resolution.
- (5) If the vouchers are to be absorbed by the receiving PHA, the billing arrangement on behalf of the family or families in question ceases at the end of the month on the date of the local PIH field office letter. For example, if the local PIH field office letter is dated June 15, the billing arrangement ends June 30. **The initial PHA continues to be responsible for any outstanding payments due to the receiving PHA.**

HUD may in certain instances require the initial PHA to honor a late submission of the reexamination documents (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee.

4. Family Decides to Port to Another Jurisdiction. The receiving PHA does not issue a voucher to a family under a billing arrangement that decides to move under portability to another jurisdiction. Instead, the receiving PHA notifies the initial PHA of the family's request. The initial PHA is responsible for issuing the family a voucher and following the procedures outlined in section 9 above. Good communication between all three PHAs is crucial in these cases.

K. PORTABILITY – ADMINISTRATIVE FEES

With the release of the HCV administrative fee study, the formula for determining administrative fee amounts owed under portability may change. Until such time as a change in the administrative fee formula is implemented through rulemaking, the requirements of this notice continue to apply.

The administrative fee structure changed with the release of the final portability rule. Revised regulations at 24 CFR § 982.355(e)(3) now provide that the initial PHA reimburses the receiving PHA for the lesser of 80% of the initial PHA’s ongoing administrative fee or 100% 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. The example below illustrates how administrative fees are now calculated. **Initial and receiving PHAs continue to have discretion to negotiate and agree to a different administrative fee amount.**

The initial PHA’s column B administrative fee rate (as indicated in previous guidance) and the receiving PHA’s column B administrative fee rate are used in determining the administrative fee amount owed for a ported voucher. HUD publishes the administrative fee rates every year. The posted administrative fees are found at www.hud.gov/offices/pih/programs/hcv.

Proration due to insufficient administrative fee funding will apply to the administrative fee amount for which the receiving PHA may bill the initial PHA. That is, when determining the administrative fee amount, proration will be applied to both the initial and receiving PHA’s administrative fee rate. Information on administrative fee proration for portability billing purposes will be provided in the administrative fee rate guidance published by HUD every year in the following webpage:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv.

The administrative fee amounts may be used for the entire calendar year to avoid the need for PHAs to re-calculate their portable fees each quarter, unless otherwise instructed by HUD. *Example:* administrative fee proration for the year is 79%. The initial PHA’s column B administrative fee rate is \$60.59 per voucher. The receiving PHA’s column B administrative fee rate is \$42.05 per voucher. The receiving PHA bills the initial PHA for \$33.21 [the lesser of: (1) \$38.29 (\$60.59x.79x.80) or (2) \$33.21 (\$42.05x.79)]. See the table below for a visual representation of this example.

PHA A (initial PHA)	Column B Rate x Proration x 0.8 *admin fee proration in this example is 79%
	\$ 60.59 x 0.79 x 0.8 = \$38.29

PHA B (receiving PHA)	Column B Rate x Proration x 1 *admin fee proration in this example is 79%
	\$ 42.05 x 0.79 x 1 = \$33.21
<i>Billed Administrative Fee = \$33.21</i>	
<i>*under previous rule requirements the billed administrative fee would have been \$38.29</i>	

On September 16, 2015, HUD sent a letter to PHAs providing initial guidance in response to several issues raised after publication of the final portability rule. A follow-up email was sent on October 15, 2015. All of the provisions of the letter and email have been incorporated into this notice. As it relates to changes in the billed administrative fee amount resulting from publication of the final portability rule, the letter instructed receiving PHAs to send an updated form HUD52665 to the initial PHA no later than October 30, 2015. The follow-up email clarified that the effective date of the change would be no earlier than October 1, 2015. If the initial PHA wished to start sending the new lesser amount at a date after October 1, 2015, it could do so. Changes to the administrative fee amount as a result of publication of the final portability rule apply to all vouchers under a billing arrangement. HUD may take action in cases where the receiving PHA failed to send the Form HUD-52665 by October 30, 2015, including but not limited to, instructing initial PHAs to offset future monthly payments until the overpayment is reconciled.

L. PORTABILITY – SUMMARY OF PORTABILITY BILLING DEADLINES:

The following table summarizes portability billing deadlines by submission type and cross-references the relevant sections of this notice.

Table: Portability Billing Deadlines

Submission Type:	Deadline:	Section of this Notice:
Initial Billing	90 days from the expiration date of the initial PHA’s voucher. *30 additional days if delayed billing is due to suspension of the voucher’s term.	section M(2)
Initial Payment	30 days from receipt of initial billing.	section N(1)
Subsequent Payments	5 th business day of the month.	section N(1)

Change in the Billing Amount	10 business days from effective date of the change.	section M(5)
Submission Type:	Deadline:	Section of this Notice:
Termination of Billing Arrangement	10 business days from effective date of termination.	section O

M. PORTABILITY – BILLING THE INITIAL PHA

Regulations at 24 CFR § 982.355(e) provide that the receiving PHA may bill the initial PHA for housing assistance payments (HAP) and administrative fees to fund the assistance for a portable family. This section outlines the process of billing the initial PHA, including completing form HUD-52665, deadlines for initial billings submitted by receiving PHAs, late initial billings, and changes to the billing amount.

In many cases billing difficulties result from miscommunication between agencies. HUD encourages PHAs to work cooperatively to resolve billing difficulties, so that any potential hardship on participants or unnecessary administrative burden is avoided.

1. Form HUD-52665. The initial PHA must enter the date by which the initial billing must be received by the initial PHA on Part I, line 9 of the form. The receiving PHA must complete and send Part II of Form HUD-52665 with sufficient time so that it is received by the initial PHA on or before the initial billing deadline. See section M(2) below for information on the initial billing deadline.

If the receiving PHA will bill the initial PHA, the receiving PHA must: (1) complete and send Part II of the Form HUD-52665 and (2) attach a copy of the new Form HUD-50058. See section G above for more information on communications between PHAs, including requirements for transmittal of Personally Identifiable Information via email. Note that Part II-B of form HUD52665 has several options and more than one of those options may be applicable to each receiving PHA submission of the form. As it relates to the initial portability billing submission, both options 3 and 10 under Part II-B must be completed.

2. Initial Billing Deadline. The initial billing submission must be received by the initial PHA no later than 90 days following the expiration date of the initial PHA's voucher. For example, if the initial PHA's voucher expires 10/30/2016, the initial billing deadline is 01/28/2017.

In cases where suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher term. If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 days. If

the initial PHA has not received the portability form within the new 30-day deadline, the initial billing is late.

3. Late Initial Billings. The initial PHA is generally not required to honor initial billings that are not received by the initial billing deadline. If the initial PHA has not received a billing notice by the deadline and determines that it will not accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it returns the late Form HUD-52665 to the receiving PHA. **A receiving PHA that failed to send the initial billing by the billing deadline is generally required to absorb the family into its own program unless the initial PHA is willing to accept the late submission.**

HUD may require the initial PHA to accept the late billing in certain cases (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). In such cases, HUD may subsequently transfer units and funding from the receiving PHA to the initial PHA when it is feasible. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA's failure to submit the bill on time, including reducing the receiving PHA's administrative fee.

4. Mid-month Moves. If the effective date of the HAP is on a date other than the first of the month, the receiving PHA cannot bill for administrative fees for that month. This is because administrative fees are earned for each program unit under HAP contract on the first day of the month. Receiving PHAs may bill for the pro-rated HAP amount to the new landlord for a partial month. Receiving PHAs may also bill for the full HAP paid to the previous landlord, if the receiving PHA has a policy of paying full HAP to the previous landlord on the move-out month. This is because ported vouchers are administered in accordance with receiving PHA policies.

Example: The family leases a unit and the HAP is effective on 10/13/16. The receiving PHA cannot bill for administrative fees for the month of October. The receiving PHA starts billing for administrative fees in November and may bill for the pro-rated HAP amount for October.

5. Changes in the Billing Amount. The receiving PHA must send a new Form HUD52665 to report a change in the billing amount along with form HUD-50058. As it relates to changes in the HAP amount, both options 4 and 10 under Part II-B of form HUD-52665 must be completed.

Receiving PHAs must notify the initial PHA of changes in the billing amount no later than 10 business days following the effective date of the change. HUD strongly encourages receiving PHAs to notify the initial PHA of billing changes at the same time that it notifies the owner and the family in order to provide the initial PHA with advance notice of the change.

If the receiving PHA fails to send the Form HUD-52665 and Form HUD-50058 within 10 business days following the effective date of the HAP change, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the 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. The examples below illustrate this policy.

Example of an Increase: The HAP amount increased effective 10/1/2016. The initial PHA did not receive the revised HUD-52665 and HUD-50058 until 12/9/2016. The initial PHA is not responsible for payment of any increase in the billing amount prior to the payment for 01/2017.

Example of a Decrease: The HAP amount decreased by \$50 effective 10/1/2016. The initial PHA did not receive the revised HUD-52665 and HUD-50058 until 1/10/2017. The initial PHA paid an additional \$200 (\$50 for October, November, December and January) and would offset this amount in future payments.

N. PORTABILITY – BILLING PAYMENTS

This section outlines the billing payment process, including deadlines for billing payments made by the initial PHA and transfer of units and funding as a result of late payments. In many cases billing difficulties simply result from miscommunication between agencies. HUD encourages PHAs to work cooperatively to resolve billing difficulties, so that any potential hardship on participants or unnecessary administrative burden is avoided.

1. Initial and Subsequent Billing Payments. 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.

Initial PHAs may not terminate or delay making payments under existing billing arrangements as a result of over-leasing or funding shortfalls in the initial PHA's program. PHAs may only terminate HAP contracts to which they are a party to address insufficient funding in accordance with 24 CFR § 982.454.

2. Transfer of Units and Funding as a Result of Late Payments. 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 section 15.a

above. Notwithstanding the transfer policies described below, failure to comply with HUD's financial procedures, including the billing and payment deadlines outlined above, may also result in the reduction of administrative fees.

The steps below outline 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 below. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.

- (1) The receiving PHA may request by memorandum to the Director of the local PIH field office with jurisdiction over the receiving PHA (the lead PIH field office) that HUD transfer the unit or units and funding in question. A copy of all correspondence between the PHAs on the matter must be attached.
- (2) The lead PIH field office will notify the initial PHA of the request within 15 business days of receipt of the receiving PHA's request. This notice will include the amount of time the initial PHA has to respond (as described in step 3 below). A copy of this notification will be sent to the PIH field office director in the PIH field office with jurisdiction over the initial PHA.
- (3) The initial PHA must respond to the lead PIH field office's notice within 15 business days. If the initial PHA is contesting whether the billing payments were late, it must provide supporting documentation in their response.
- (4) The lead PIH field office will render a decision no later than 15 business days following the deadline by which the initial PHA had to respond to the lead PIH field office's memorandum.
- (5) If the lead PIH field office determines that the payments in question were late, it will send a memorandum to the Housing Choice Voucher Financial Management Division indicating the number of units to be permanently transferred from the initial PHA to the receiving PHA. The number will correspond with the number of families for which billing payments were late. A copy of this memorandum will be sent to the PIH field office with jurisdiction over the initial PHA and to both PHAs.

(6) After receipt of the lead PIH field office's memorandum, HUD will reduce the baseline number of units and budget authority from the initial PHA's ACC and increase the baseline number of units and budget authority on the receiving PHA's ACC. HUD will use the revised baseline numbers to readjust the funding.

(7) The billing arrangement on behalf of the family or families in question ceases with the transfer of the unit or units. **The initial PHA continues to be responsible for any outstanding payments due to the receiving PHA.**

O. PORTABILITY – TERMINATING A BILLING ARRANGEMENT

This section outlines the process of terminating a billing arrangement with the initial PHA. A billing arrangement is terminated when the receiving PHA absorbs the family into its program after having billed the initial PHA or when the HAP contract is terminated for any reason.

1. Notifying the Initial PHA. The receiving PHA **must** send an updated form HUD52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement. As it relates to terminating a billing arrangement, Part II-B options 7, 8, or 9 of form HUD-52665 may be applicable.

2. Retroactive Absorption. Retroactive absorptions are not allowed. However, receiving PHAs have 10 business days from the effective date of the absorption to send an updated form HUD-52665 to the initial PHA. This may result in absorptions that are retroactive but for no more than 10 business days.

There is one exception to the limitation on retroactive absorptions. If an initial PHA requests that the receiving PHA absorb ported vouchers as a way of avoiding terminations of assistance due to a funding shortfall, the receiving PHA may retroactively absorb families for which the receiving PHA was previously billing. In these cases, the receiving PHA reimburses the initial PHA for payments back to the effective date of the absorption but only for the current calendar year. This cost saving strategy is consistent with PIH Notice 2011-28, Cost-Savings Measures in the Housing Choice Voucher (HCV) Program.

3. Receipt of Payments for Billing Arrangements No Longer in Effect. 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 take the following actions:

(1) Direct the receiving PHA not to utilize their administrative fee reserve account in accordance with 24 CFR § 982.155(b)(3).

(2) Reduce the receiving PHA's administrative fees by up to 10 percent of the monthly billing amount (HAP and Administrative Fee) in question for each month the payments continued after the billing arrangement was terminated. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during this period). HUD will consider the circumstances of the particular case in making this determination. For example, if the receiving PHA was billing the initial PHA \$600 a month on behalf of a family and collected four monthly billing payments beyond the billing arrangement termination date (for a total of \$2,400), the receiving PHA is responsible for returning \$2,400 to the initial PHA. In addition, HUD may reduce the PHA's administrative fee by up to \$240 as sanction for failing to terminate the billing arrangement in a timely manner.

Should HUD decide to take any of the actions described above, the PIH field office with jurisdiction over the receiving PHA will send a letter to the receiving PHA informing the receiving PHA of such action. The PIH field office must send a copy of the letter to the HCV Financial Management Center (FMC) and the HCV Financial Management Division (FMD). HUD may also further reduce the administrative fee if the receiving PHA does not promptly return the overpayment to the initial PHA. This general policy does not in any way restrict the PIH field office Director from exercising additional remedial action. See Appendix A for guidance on how to record refunded amounts in the financial records by both the initial PHA and the receiving PHA.

P. PORTABILITY AND PROJECT BASED ASSISTANCE

In accordance with 24 CFR § 983.2(b)(2), provisions on portability do not apply to the project-based voucher (PBV) program. A family porting into a receiving PHA's jurisdiction may only receive a tenant-based voucher or homeownership assistance. In order for a tenant-based voucher holder to be housed in a PBV unit, the family would have to apply to the receiving PHA's PBV program and give up their tenant-based voucher prior to being housed in the PBV unit.

Q. PIC DATA ENTRY

This section summarizes the action codes to use for ported families when completing Form HUD-50058. It is crucial that PHAs enter timely and accurate information on portability families, as this data is used by HUD when determining whether a PHA is eligible for any additional funding

that may be available for PHAs that are paying portability costs above their normal average costs. HUD encourages PHAs to review PIC records periodically to ensure they are properly identified.

1. Type of Action – Line 2a. The table below summarizes the action code submission associated with portability moves. Further details about each submission type are also addressed after the table.

Table: Action Code Submission for Portability Moves

Responsible PHA	Event	Type of 50058 Submission
Initial PHA	Applicant family ports	Voucher Issuance (action code 10)
Responsible PHA	Event	Type of 50058 Submission
Initial PHA	Participant family ports	Move-out (action code 5); regardless of billing or absorption
Receiving PHA	Family ports	Voucher Issuance (action code 10); before entering the following codes, as applicable.
Receiving PHA	Applicant family ports	New Admission (action code 1)
Receiving PHA	Participant family ports	Move-in (action code 4); regardless of billing or absorption

(a). New Admission (action code 1): the receiving PHA classifies the family as a new admission if the family exercises portability with its first admission into the voucher program. This family (generally off the waiting list) would have received a voucher for the first time from the initial PHA and exercised portability without ever having leased an assisted unit in the initial PHA’s jurisdiction.

(b). Portability Move-in (action code 4): the receiving PHA classifies the family as a portability move-in if the family moves into a receiving PHA's jurisdiction after being previously assisted by an initial PHA regardless of whether the receiving PHA absorbs the family or bills the initial PHA. The portability move-in code is used even if the receiving PHA chooses to conduct a new reexamination of income for a participant family.

(c). Portability Move-out (action code 5): the initial PHA classifies the family as a portability moveout if the family moves out of an initial PHA's jurisdiction, where it had been previously assisted, regardless of whether the receiving PHA bills the initial PHA or absorbs the family.

Reporting of changes in the family's income or composition after a portability move-out is the responsibility of the receiving PHA. See paragraph below on how initial PHAs code applicant families.

(d). Issuance of Voucher (action code 10): Receiving PHAs must enter an action code 10 before submission of an action code 1 (New Admission) and an action code 4 (Portability Move-in). Initial PHAs must enter an action code 10 for families that exercise a portability move with their first admission into the voucher program. See page 70 of the Form HUD-50058 Instructions Booklet for sections to be completed at the time of voucher issuance.

2. Effective Date of Action - Line 2b. Enter the effective date as provided below:

New Admission (action code 1): enter the effective date of the HAP contract for the family.

Portability Move-in (action code 4): enter the effective date of the HAP contract for the family.

Portability Move-out (action code 5): enter the date the family moves out of the initial PHA's jurisdiction.

Issuance of Voucher (action code 10): enter the effective date of the voucher. Each PHA enters the effective date of its own voucher.

3. Did family move into your PHA jurisdiction under portability? - Line 12d. If the family moved into a PHA's jurisdiction under portability as a new admission or portability movein, regardless of whether the family is absorbed into the receiving PHA's jurisdiction or the initial PHA is billed, the PHA must enter "Y" in this field. This field will not change as long as the family continues to be assisted in the receiving PHA's jurisdiction, even if the receiving PHA decides to absorb the family after first billing the initial PHA.

4. PHA Code Billed - Line 12f. Since an initial PHA is not responsible for submitting reports into PIC for families whose assistance is administered by another PHA under portability, the

PHA code of the billed PHA must be entered correctly on this line in order for reporting rates to be accurate.

5. Projected Effective Date of Next Reexamination – Line2i. Generally, this will be 12 months from the last reexamination done by the initial PHA (found in line 2b of the 50058 and Part I, line 7 of form HUD-52665 sent by the initial PHA to the receiving PHA) or 12 months from the effective date of the reexamination completed by the receiving PHA (generally the effective date of the lease and HAP contract.)

6. Moving to Work (MTW) Agencies. Requirements of the portability rule are applicable to MTW agencies, unless there are approved activities in their MTW plan to the contrary. An MTW agency cannot apply its MTW flexibilities to a voucher holder living in another PHA's jurisdiction. After having moved under portability, the family is subject to the receiving PHA's policies.

APPENDIX A

Guidance on PHA Entries for Returning Unearned HAPs and Fees under Portability

A number of cases have surfaced in which the receiving PHA did not promptly inform the initial PHA that billing arrangements were terminated as the result of absorption by the receiving PHA or families leaving the program. As a result the initial PHA continued to make monthly payments for housing assistance payments and administrative fees to the receiving PHA. The receiving PHA is required to refund the excess payments to the initial PHA. See section O(3) above.

The following guidance is provided regarding how to appropriately record in your accounting records accounting entries to accommodate the returned payments.

RECEIVING PHA. Normally, the receiving PHA would have recorded the following when the HAP was paid to the owner on behalf of the family:

DR Accounts Receivable - Initial PHA (for HAP and fee)

CR Income (for Fee)

CR Cash (for HAP payment)

Upon receipt of payment of HAP and fees from the initial PHA, the Receiving PHA would have:

DR Cash

CR Accounts Receivable - Initial PHA

Typically, when the billing arrangement ceased the first set of transactions did not happen (the owners were not paid and the income was not recorded) because the receiving PHA had terminated the HAP contract. The receiving PHA failed to inform the initial PHA and continued to debit "Cash" and credit "Accounts Receivable" when the payment arrived from the initial PHA. The large CR balance in the "Accounts Receivable" is abnormal and the receiving PHA should have recognized something was amiss.

When the receiving PHA returns funds it should not have received to the initial PHA, the receiving PHA would:

DR Accounts Receivable - Initial PHA

CR Cash

When all refunds are made, the “Accounts Receivable” balance should be zero or at normal levels.

INITIAL PHA. When the initial PHA recognized the obligation under the billing arrangement for the family that moved under the portability procedures it would have created the expense and the payable:

DR Expense - Control (and subsidiaries for HAP and administrative expenses)

CR Accounts Payable - Receiving PHA

When the initial PHA then paid the receiving PHA:

DR Accounts Payable - Receiving PHA

CR Cash

When the initial PHA receives the funds back from the receiving PHA:

DR Cash

CR Expenses - Control (and subsidiaries)

APPENDIX B
HOW PORTABILITY WORKS BROCHURE

How Portability Works

What is Portability?

"Portability" in the Housing Choice Voucher

(HCV) program refers to the process through which your family can transfer or "port" your rental subsidy when you move to a location outside the jurisdiction of the public housing agency (PHA) that first gave you the voucher when you were selected for the program (**the initial PHA**).

The agency that will administer your assistance in the area to which you are moving is called the receiving PHA.



New families have to live in the jurisdiction of the initial PHA for a year before they can port. But, the initial PHA may allow new families to port during this one-year period.

What Happens Next?

Contacting the Receiving PHA

1. Your case manager will let you know how and when to contact the receiving PHA. Your case manager must give you enough information so that you know how to contact the receiving PHA.

1. You must notify the initial PHA that you would like to port and to which area you are moving.
2. The initial PHA will determine if you are eligible to move. For example, the PHA will determine whether you have moved out of your unit in accordance with your lease.
3. If eligible to move, the initial PHA will issue you a voucher (if it has not done so already) and send all relevant paperwork to the receiving PHA.
4. If you are currently assisted, you must give your landlord notice of your intent to vacate in accordance with your lease.

2. If there is more than one PHA that administers the HCV program where you wish to move, you may choose the receiving PHA. The initial PHA will give you the contact information for the PHAs that serve the area. If you prefer, you may request that the initial PHA selects the receiving PHA for you.

Generally, the initial PHA is not required to give you any other information about the receiving PHAs, but you may wish to find out more details when contacting them (such as whether the receiving PHA operates a Family Self-Sufficiency or Homeownership program).

See back for more details

See back for more details



How Portability Works

Before Porting, Things You Should Know

Subsidy Standards: The receiving PHA may have different subsidy standards. In other words, the initial PHA may have issued you a three-bedroom voucher, but the receiving PHA may, if appropriate for your family, issue you a two-bedroom voucher. Note, however, that the PHA's subsidy standards must comply with fair housing and civil rights laws. This includes processing reasonable accommodation requests that are necessary for qualified individuals with disabilities.

Payment Standards: The payment standards of the receiving

PHA may

Once at the Receiving PHA

be

different for each PHA. Payment standards are what determine the amount of the rent that the PHA will pay on your behalf. If a receiving PHA's payment standards are lower than the initial PHA, then the portion of the rent you pay may be more than what you were paying at the initial PHA.

Re-screening: The receiving PHA may re-screen you using their own policies, which may be different than the initial PHA's policies and could result in them denying your request to move. When contacting the receiving PHA, you may want to ask whether they re-screen families moving into their area under portability and what are their policies for termination or denial of HCV assistance. This will assist you in determining if the receiving PHA's policies might prevent you from moving to their jurisdiction.

Time Management: You should manage the move so that you have enough time to arrive at the receiving PHA before the initial PHA voucher expires; otherwise, you may lose your assistance.

See front for more details

1. The receiving PHA will issue you a voucher to search for a unit in its jurisdiction. Your voucher must be extended by 30 days from the expiration date on the voucher issued by the initial PHA.
2. When you submit a request for tenancy approval, the time on your voucher will stop until you are notified in writing whether the unit is approved or denied. The request for tenancy approval is the form you will submit to the receiving PHA once you find a unit, so that the receiving PHA can determine whether you may rent that unit under the program.
3. If you decide that you do not want to lease a unit in the area, the receiving PHA will return your voucher to the initial PHA. The initial PHA is not required to, but may, extend the term of your voucher so that you may search for a unit in the initial PHA's jurisdiction or port to another jurisdiction.

Any additional instructions will be provided by the receiving PHA. PHAs must comply with all nondiscrimination and equal opportunity requirements in the portability process, including,

but not limited to, the Fair Housing Act, Section 504 of the of the Rehabilitation Act, Title VI of the Civil Rights Act, and title II of the Americans with Disabilities Act.

See front for more details

Chapter 14

CONTRACT TERMINATIONS

INTRODUCTION

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the PHA which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the PHA and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the PHA may be terminated by the PHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month in which the Contract is terminated. The owner must reimburse the PHA for any subsidies paid by the PHA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS

If the owner wishes to terminate the lease, the owner is required under the lease, to provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations. During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that

threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant. The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The PHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the PHA’s decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. The PHA will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the PHA with the documentation, including notice of the lock-out date.

The PHA must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

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

D. TERMINATION OF THE CONTRACT BY PHA

The term of the HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family, and when the owner has breached the HAP contract. (See "Owner Disapproval and Restriction" chapter)

The PHA may also terminate the contract if:

The PHA terminates assistance to the family.

The unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the PHA terminates the HAP contract under the violation of HQS space standards, the PHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

INTRODUCTION

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the Family Obligations under the program, the grounds under which the PHA can deny or terminate assistance, and the PHA's informal hearing procedures. This Chapter describes when the PHA is required to deny or terminate assistance, and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION

If denial or termination is based upon behavior resulting from a disability, the PHA will delay the denial or termination in order to determine if there is an accommodation, which would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following: denial for placement on the PHA waiting list; denying a voucher or withdrawing a voucher; refusing to enter into a HAP contract or approve a tenancy; refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following: refusing to enter into a HAP contract or approve a tenancy; terminating housing assistance payments under an outstanding HAP contract; refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination

The PHA must deny assistance to applicants, and terminate assistance for participants: if any member of the family fails to sign and submit HUD or PHA required consent forms for obtaining information; if no member of the family is a U.S. citizen or eligible immigrant; if the family is under contract and 180 days have elapsed since the PHA's last housing assistance payment was made.

The PHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine in violation of any Federal or State law.

Grounds for Denial or Termination of Assistance

The PHA may deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

The family violates any family obligation under the program as listed in 24 CFR 982.551.

If any member of the family has been evicted from federally assisted housing for a serious violation of the lease within the past 5 years.

If any PHA has ever terminated assistance under the program for any member of the family.

If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

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

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

The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The PHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The PHA will prescribe the terms of the agreement. (See "Repayment Agreements" chapter.)

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

"Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

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

Actual physical abuse or violence will always be cause for termination.

Any member of the family whose drug or alcohol abuse interferes with the health, safety or peaceful enjoyment of other project residents. Crime by Family Member (See One Strike policy section below.)

If any member of the family commits drug-related criminal activity, or violent criminal activity. (See One-strike policy below)

Non-compliance with Non-Citizen Rule requirements; If the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated, unless the ineligible individual has already been considered in prorating the family's assistance. Termination of tenancy for violation of this provision shall make the family ineligible for future housing assistance for a period of thirty-six (36) months.

Refer to "Eligibility for Admission" chapter, "Other Criteria for Admission" section for further information.

B. "ONE STRIKE" POLICY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the Lebanon County Housing Authority to fully endorse and implement a policy designed to help create and maintain a safe and drug-free community and to keep our program participants free from threats to their personal and family safety.

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability or other legally protected groups.

Screening of Applicants

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by the Notice 96-27, the PHA **will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior**. Such screening will apply to any member of the household who is 18 years of age or older.

Standard for Violation

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determines:

There is reasonable cause to believe that the person is illegally using a controlled substance or the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse. The PHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous 12 months.

The person has engaged in or is engaging in violent criminal activity. Violent criminal activity means any act within the past five years by applicants or participants, household members, or guests which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person of another, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

The person has engaged or is engaging in drug related criminal activity. Drug related criminal activity means any act within the past five years by applicants or participants, household members, or guests which involve the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance, which resulted in the criminal conviction of the applicant or participant, household members or guests. **NOTE: In the case of current residents or participants (but not applicants), drug related criminal activity shall**

not include the use of medical marijuana, so long as such use is in compliance with the Commonwealth of Pennsylvania's Medical Marijuana Act (commonly referred to as Act 16 of 2016).

Within the past five years the applicant, participant or a household member has been convicted of a criminal act that is defined under Federal, State or local laws as a felony.

Within the past five years the applicant, participant or a household member has been convicted of a criminal act (including a conviction for a misdemeanor) in which the victim was an individual under the age of 18 at the time the criminal act occurred.

Within the past five years the family has been evicted from Public Housing, Indian Housing, or any other subsidized housing program under the Housing Act of 1937 (as amended) because of drug-related criminal activity, violent criminal activity or commission of a felony.

That the applicant, participant or a household member is subject to a lifetime registration requirement under a State sex offender registration program.

The existence of the above-referenced behavior by any household member or guest, regardless of the applicant or participant's knowledge of the behavior, shall be grounds for denial or termination of assistance.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

In appropriate cases, the PHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

Notice of Termination of Assistance

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states: the reason(s) for the proposed termination; the effective date of the proposed termination; the family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance; the date by which a request for an informal hearing must be received by the PHA.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance.

Required Evidence

Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The PHA will pursue fact-finding efforts as needed to obtain credible evidence.

Definition of Five Year Period

The terms “five year period” or “five years” shall mean five calendar years from the date of the prohibited behavior or five calendar years from the date of release from any period of incarceration imposed as a result of the prohibited behavior, whichever ever date is later.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated. In accordance with HUD regulations, a criminal record obtained through the Federal Bureau of Investigation will be destroyed once the purpose for which it was requested is accomplished. If destruction of a criminal record is necessary the PHA will document in the family’s file the circumstances of the criminal report and the date the report was destroyed. Misuse of the above information by any employee will be grounds for termination of employment.

C. VIOLENCE AGAINST WOMAN ACT

Background

The Violence Against Women and Justice Department Reauthorization Act of 2005 protects tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted based on acts of such violence against them.

Requirements

In general, the law provides in part that criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the participant or an immediate member of the participant’s family is the victim or threatened victim of that abuse. The law also provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence and will not be “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

Certification of Domestic Violence, Dating Violence or Stalking

Among other requirements, Sections 606 and 607 of VAWA add certification and confidentiality provisions that allow for PHA responding to an incident or incidents of actual or threatened domestic violence, dating violence or stalking that may affect a tenant’s participation in the housing program to request in writing that an individual complete, sign and submit, within 14 business days of the request, a HUD-approved certification form. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual shall provide

the name of the perpetrator.

In lieu of a certification form, or in addition to the certification form, a tenant may provide to PHA, (1) a Federal, State, tribal, territorial, or local police record or court record; (2) documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, or stalking has signed or attested to the documentation.

The Authority is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive the protections of VAWA. Note that, The Authority, at their discretion, may provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

The Authority should be mindful that the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk, e.g., the abuser may monitor the mail. Therefore, the Authority may require that the tenant appear in person to pick up the certification form and are encouraged to work with tenants to make delivery arrangements that do not place the tenant at risk.

If the individual does not provide the form HUD - 50066 or the information that may be provided in lieu of the certification by the 14th business day or any extension of that date provided by the Authority, none of the protections afforded to the victim of domestic violence, dating violence or stalking by sections 606 or 607 will apply. The owner would therefore be free to evict and the Authority to terminate assistance, in the circumstances authorized by otherwise applicable law and lease provisions, without regard to the amendments made by Sections 606 and 607.

D. FAMILY OBLIGATIONS

The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release or other documentation. The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information. All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family as described in 982.404(b).

The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify the PHA before the family moves out of the unit or terminates the lease upon notice to the owner.

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 PHA must approve the composition of the assisted family residing in the unit. The family must promptly inform the PHA 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.

The family must promptly notify the PHA if any family member no longer resides in the unit.

If the PHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or PHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sublease or let the unit.

The family must not assign the lease or transfer the unit.

The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit.

The family must not own or have any interest in the unit.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.

The members of the family may not engage in drug-related criminal activity or violent criminal activity. (See PHA one strike policy).

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

Housing Authority Discretion

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The PHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The PHA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The PHA may permit the other members of a family to continue in the program.

Enforcing Family Obligations

Explanations and Terms

The term "Promptly" when used with the Family Obligations always means "within 15 calendar days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach

The supervisor will determine if an HQS breach is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Section 8 Supervisor.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the PHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

Nonpayment of rent is considered a serious violation of the lease.

Notification of Eviction

If the family requests assistance to move and they did not notify the PHA of an eviction within 15 calendar days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family

The PHA will deny a family's request to add additional family members who are:

Persons who have been evicted from other subsidized housing.

Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.

Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.

Persons who commit drug-related criminal activity or violent criminal activity.

Persons who do not meet the PHA's definition of family.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to the PHA or to another PHA or other assisted housing provider in connection with Section 8 or public housing or other housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Member Moves Out

Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information: the date the family member moved out; the new address, if known, of the family member; and a statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-making Activity in Unit

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business that is not available for sleeping, it will be considered a violation. If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the PHA determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Voucher Program.

E. PROCEDURES FOR NON-CITIZENS

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing. If the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated, unless the ineligible individual has already been considered in prorating the family's assistance. Termination of assistance for violation of this provision shall make the family ineligible for future housing assistance for a period of thirty-six (36) months. Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the PHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant

or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the PHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status. The PHA will then verify eligible status, deny, terminate, or prorate as applicable.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the PHA either after the INS appeal or in lieu of the INS appeal. After the PHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

F. ZERO (\$0) ASSISTANCE TENANCIES

The PHA has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the PHA will resume assistance payments for the family. In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

G. TERMINATION FOR MISREPRESENTATION

If the family has misrepresented any facts that caused the PHA to overpay assistance, the PHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement.

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the PHA will deny or terminate assistance. In making this determination, the PHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES

It is a Family Obligation to supply information, documentation, and certification as needed for the PHA to fulfill its responsibilities. The PHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family permit the PHA to inspect the unit, and appointments are made for this purpose.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan. Appointments will be scheduled and time requirements will be imposed for the following events and circumstances: eligibility for admissions; verification procedures; voucher issuance and briefings; Housing Quality Standards and inspections; recertifications; and appeals.

Acceptable reasons for missing appointments or failing to provide information by deadlines (with proper

documentation) are: medical emergency; incarceration; or family emergency.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the PHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the PHA to inspect the unit. For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing the notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance.

I. SUSPENSION DUE TO INSUFFICIENT FUNDING

The PHA monitors income and expenditure data for the Housing Choice Voucher Program on a monthly basis. If at any time the PHA determines that insufficient funding is available to meet Housing Assistance Payment obligations, the PHA will take action to ensure fiscal solvency of the Housing Choice Voucher Program. The Authority will take the following actions to balance anticipated voucher program expenditures with voucher program income:

1. Suspend Issuances of vouchers to applicants from the Section 8 Voucher Program waiting list.
2. Termination of vouchers previously issued to applicant, but not yet under an assistance contract.
3. Suspend assistance to current program participants.

In the event that the PHA must suspend assistance to current participants, such suspensions will be performed as follows:

The PHA will compile a list of all current program participants. This participant list shall be in descending order of date of admission into the program (that is the oldest date of admission shall appear first)

The PHA will review the participant list and will initially exclude from the list all participant families in which the Head of Household or Co Head of Household is elderly (defined as age 62 or older) or is disabled.

The PHA will then select non elderly/non disabled households from the participant list in order of program admission date, beginning with the participant with the oldest admission date.

The PHA will continue to select participants from the list until a sufficient number of participants are selected such that the sum of their monthly assistance payments is sufficient to reduce total monthly payments to an amount commensurate with program income.

In the event that there are not a sufficient number of non elderly/non disabled households available to reduce expenditures to the required level, then the PHA will select elderly/disabled households for suspension in the order of the household's program admission date (beginning with the oldest date of admission).

All participants selected for suspension as described in this section shall receive no less than 30 days written notification of the suspension of assistance. Such notice shall also be provided to the

affected property owner.

Suspension of assistance under this section shall not be subject to the PHA's Grievance Policy and any participant suspended solely due to lack of sufficient funding shall not be entitled to a hearing to contest the PHA's action.

Suspension of assistance to the participant under this section shall result in termination of the Housing Assistance Payment Contract with the property owner on the same date as assistance to the participant is suspended. The PHA shall have no obligation for any additional assistance payments to the property owner beyond the date of suspension of assistance.

4. Restoration of assistance

Any participant whose assistance is suspended due solely to lack of sufficient funding may be entitled to reinstatement of assistance. Reinstatement shall be available to any suspended participant who, as of the date of the reinstatement offer, is not already receiving another form of subsidized housing assistance. Such other subsidized housing assistance shall mean a housing program in which the participant is required to pay no more than 30% of their adjusted income for rent and utilities.

Assistance shall be reinstated in the same order in which assistance was originally suspended. However, reinstatement may be subject to termination of participation in the event the participant has engaged in an act or acts during the suspension period, which act or acts would have resulted in program termination had the assistance suspension not been in effect. For example if during the suspension period the participant engages in a criminal act which would have resulted in a termination action had assistance not been suspended. In the event of such a termination action, all requirements in this policy governing termination of program participant shall be in effect.

Reinstatement will include the execution of a new Housing Assistance Payment contract with the property owner. If at the time of reinstatement the new HAP contract is executed for the same dwelling occupied by the participant at the time of assistance suspension, the PHA shall have no obligation for assistance payments during the time period in which the suspension action was in effect.

When offered the opportunity for reinstatement, the affected participants will be subject to the procedures outlined in this policy for new participants, including but not limited to: issuance of the voucher, time period for locating a dwelling, execution of the HAP contract, rent reasonableness and Housing Quality Standards.

In no event shall the PHA admit any new participant families from the waiting list nor absorb any incoming portable voucher holders until all eligible participants with suspended assistance have been offered the opportunity for reinstatement.

All suspended participants shall be notified in writing of the offer of reinstatement. Such written notice shall be sent to the last known mailing address provided by the participant. Failure of the participant to respond to the offer of reinstatement within 30 days shall be grounds for termination of assistance in accordance with the procedures for termination outlined in this Administrative Plan.

5. Preference of Public Housing

Any participant subject to suspension of assistance shall be eligible to receive a preference for admission into the PHA's Public Housing Program. Applications of participants who have previous active Public Housing applications shall be updated to reflect the suspension preference. Participants with suspended assistance who have not previously applied for the PHA's Public Housing program will be

invited to submit an application at the time their Section 8 assistance is suspended. Admission into the Public Housing program for suspended participants will be subject to the same admission and eligibility requirements in effect for all other Public Housing applicants.

6. Multiple Suspension Events

In the event that the PHA must suspend assistance on more than one occasion, additional restrictions on suspension will take effect. In no case shall any participant be subject to a 2nd or subsequent suspension event until all participants have been subject to suspension.

7. Treatment of Suspended Participants During Suspension

Any participants with suspended assistance shall remain a current program participant. As such reinstatement of assistance shall not be considered a new program admission for purposes of the income targeting requirements outline in this Administrative Plan.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

INTRODUCTION

It is the policy of the PHA to encourage owners to participate in the Voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The PHA may disapprove the owner for the following reasons:

HUD or other agency directly related has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the PHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed the PHA that a court or administrative agency has determined that the has owner violated the Fair Housing Act or other federal equal opportunity requirements.

Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

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

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

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

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing.

Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

Is drug-related criminal activity or violent criminal activity;

The owner has not paid State or local real estate taxes, fines or assessments.

B. OWNER RESTRICTIONS AND PENALTIES

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

C. CHANGE IN OWNERSHIP

A change in ownership may require execution of a new contract and lease.

The PHA will process a change of ownership upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification or Social Security number of the new owner.

Chapter 17

OWNER OR FAMILY DEBTS TO THE PHA

INTRODUCTION

This Chapter describes the PHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to: requests for lump sum payments; civil suits; payment agreements; abatements; reductions in HAP to owner; collection agencies; and credit bureaus

A. PAYMENT AGREEMENT FOR FAMILIES

A Payment Agreement as used in this Plan is a document entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

The PHA will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the PHA. There are some circumstances in which the PHA may not enter into a payment agreement. They are: if the family already has a Payment Agreement in place; if the PHA determines that the family committed program fraud; or if the PHA determines that the debt amount is larger than can be paid back by the family in 18 months.

Payment Agreements will be executed between the PHA and the head of household, co-head or spouse. The family will be required to pre-pay 10% of the amount owed prior to or upon execution of the Repayment Agreement. Repayment of the remaining balance shall be based on the total amount owed and the family's financial circumstances. However, in no case shall the monthly payment be less than \$25.00. The Repayment Agreement must be executed by the Executive Director or their designee.

The agreement will be in arrears when the PHA does not receive a payment within the first 5 business days of the month. The Payment Agreement will be considered to be in default when it is in arrears for 40 calendar days. If the agreement is deemed to be in default the family will be sent a termination of assistance notice. The family's assistance will be terminated unless the

PHA receives the balance of the Repayment Agreement in full within 15 calendar days of the termination notice.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Executive Director or their designee. No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the Payment Agreement is current: the HAP contract is terminated due to owner non-compliance or opt-out or a natural disaster

If the family already has a Payment Agreement in place and incurs an additional debt to the PHA the PHA will not enter into more than one Payment Agreement with the family. Additional amounts owed by the family may be added to the existing payment agreement.

B. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

Minimum rent arrears that are less than \$25.00 will be required to be paid in full the first month following the end of the minimum rent period. The minimum monthly amount for a repayment agreement incurred for minimum rent arrears is \$25.00 The PHA will not enter into a repayment agreement that will take more than twelve months to pay off.

C. OWNER DEBTS TO THE PHA

If the PHA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the PHA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract. If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the PHA will: require the owner to pay the amount in full within 30 days or enter into a Payment Agreement with the owner for the amount owed.

If the owner fails to make repayment or defaults on a payment agreement the PHA will pursue collections through collection agencies and/or credit bureaus and/or the local court system AND Restrict the owner from future participation.

D. WRITING OFF DEBTS

Debts will be written off if: the debtor's whereabouts are unknown and the debt is more than 2 years old; s determination is made that the debtor is judgment proof; the debtor is deceased; the debtor is confined to an institution indefinitely or for more than 2 years or the amount is less than \$250.00 and the debtor cannot be located.

Chapter 18

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This Chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE PHA

The PHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The PHA may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone. Complaints will initially be forwarded to the Section 8 Supervisor. If the complaint cannot be resolved in will be referred to the Executive Director.

B. PREFERENCE DENIALS

When the PHA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with the Section 8 Supervisor or designee to discuss the reasons for the denial and to dispute the PHA's decision.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain: the reason(s) they are ineligible; the procedure for requesting a review if the applicant does not agree with the decision and the time limit for requesting a review.

The PHA must provide applicants with the opportunity for an Informal Review of decisions denying: listing on the PHA's waiting list; issuance of a Voucher; and participation in the program. Informal Reviews are not required for established policies and procedures and PHA determinations such as: discretionary administrative determinations by the PHA; general policy issues or class grievances; a determination of the family unit size under the PHA subsidy standards; refusal to extend or suspend a Voucher; a PHA determination not to grant approval of the tenancy; determination that unit is not in compliance with HQS; and determination that unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request for an Informal Review must be received in writing by the close of the business day, no later than 14 calendar days from the date of the PHA's notification of denial of assistance. The informal review will be scheduled within 20 business days from the date the request is received.

Neither the person who made or approved the decision under review, nor a subordinate of such person may conduct the Informal Review. A member of the supervisor staff or an independent third party under contract with the Authority may conduct the review.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

As a reasonable accommodation to a person with disabilities the review may be conducted by mail and/or telephone if acceptable to both parties.

A Notice of the Review findings will be provided in writing to the applicant within 20 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision. All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES

When the PHA makes a decision regarding continued eligibility and/or the amount of assistance, participants must be notified in writing. The PHA will give the family prompt notice of such determinations which will include: the proposed action or decision of the PHA; the date the proposed action or decision will take place; the family's right to an explanation of the basis for the PHA's decision; the procedures for requesting a hearing if the family disputes the action or decision; and the time limit for requesting the hearing. The family will be informed that any request for an informal hearing must be received in writing by the close of the business day, no later than 14 calendar days from the date of the PHA's notification.

The PHA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following PHA determinations:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment;

Appropriate utility allowance used from schedule;

Family unit size determination under PHA subsidy standards;

Determination that premerger Certificate program family is under occupied in their current unit and a request for exception is denied;

Determination to terminate assistance for any reason.

Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

The PHA must always provided the opportunity for an informal hearing before termination of assistance.

Informal Hearings are not required for established policies and procedures and PHA determinations such as: 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 or suspension of a voucher term; a PHA determination not to approve a unit or lease; a PHA determination that an assisted unit is not in compliance with HQS (PHA must provide hearing for family breach of HQS because that is a family obligation determination); a PHA determination that the unit is not in accordance with HQS because of the family size; a PHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

It is the PHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the PHA receives a request for an informal hearing, a hearing shall be scheduled within 20 business days. The notification of hearing will contain: the date and time of the hearing; the location where the hearing will be held; the family's right to bring evidence, witnesses, legal or other representation at the family's expense; the right to view any documents or evidence in the possession of the PHA upon which the PHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. The PHA must receive requests by the family for any such documents or evidence no later than 5 business days before the hearing date.

The PHA may issue a written request to the family for copies of any documents or evidence that the family will use at the hearing. The PHA will make any such document no later than 5 business days before the hearing date.

The PHA's Hearing Procedures

After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the PHA within 24 hours, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to: present written or oral objections to the PHA's determination; examine the documents in the file which are the basis for the PHA's action, and all documents submitted to the Hearing Officer; copy any relevant documents at their expense; present any information or witnesses pertinent to the issue of the hearing; request that PHA staff be available or present at the hearing to answer questions pertinent to the case; and be represented by legal counsel, advocate, or other designated representative at their own expense. In no case will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this Chapter, the PHA has a right to: present evidence and any information pertinent to the issue of the hearing; be notified if the family intends to be represented by legal counsel, advocate, or another party; examine and copy any documents to be used by the family prior to the hearing; have its attorney present; and have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. A member of the supervisor staff or an independent third party under contract with the Authority may serve as Hearing Officer.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

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

The Hearing Officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the PHA and the family within 20 business days and shall include: a clear summary of the decision and reasons for the decision; if the decision involves money owed, the amount owed; the date the decision goes into effect.

The PHA is not bound by hearing decisions: which concern matters in which the PHA is not required to provide an opportunity for a hearing; which conflict with or contradict HUD regulations or requirements; which conflict with or contradict Federal, State or local laws; or which exceed the authority of the person conducting the hearing.

The PHA shall send a letter to the participant if it determines the PHA is not bound by the Hearing Officer's determination within 20 business days. The letter shall include the PHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal. 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 PHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the PHA will: deny the applicant family; defer termination if the family is a participant and qualifies for deferral; terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES

When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Examples of mitigating circumstances are:

A person with a cognitive disorder may not have understood the requirement to report increases in income;

A person may not understand the need to make regular repayments on a promissory note;

Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

Chapter 19

SPECIAL HOUSING TYPES

INTRODUCTION

The PHA will only permit the use of the housing types described in Chapter 9 in its program when not requested and needed as a reasonable accommodation for persons with disabilities. The PHA will not set aside any program funding for special housing types, or for a special housing type.

Verification of Need for Reasonable Accommodation

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by the Executive Director and a written response stating approval or disapproval will be sent to the applicant/participant within 60 days of receipt of the request.

A copy of the PHA's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

A. CONGREGATE HOUSING [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit.

The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The PHA will 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.

Congregate Housing Lease and HAP Contract [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

Housing Quality Standards

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

B. GROUP HOMES [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the PHA, a live-in aide may reside 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. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

Group Home Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in Aide.

Group Home Rent and HAP Contract [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent the PHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy

Unless there is a live-in aide, the family unit size is one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

Utility Allowance

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

Housing Quality Standards

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

C. SHARED HOUSING [24 CFR 982.615]

Occupancy

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The PHA may approve a live-in aide to reside with a family in order to care for a person with a disability. 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.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the PHA. However, housing assistance may not be paid on behalf of an owner. The PHA will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

Rent and HAP Contract

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

Maximum Subsidy

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the PHA payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the PHA payment standard for the shared housing unit size.

If the PHA approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

Housing Quality Standards

The PHA will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

D. COOPERATIVE HOUSING [24 CFR 982.619]

The PHA will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The PHA will not approve assistance for a family in cooperative housing until the PHA has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and

Payment Standards" chapter.

The PHA may approve a live-in aide to reside with the family to care for a person with disabilities. The PHA will 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. If the PHA approves a live-in aide, the live-in aide will be counted when determining the family unit size.

Housing Quality Standards

The PHA will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by 24 CFR 982.401.

E. MANUFACTURED HOMES

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will provide assistance for a family that owns the manufactured home and leases only the space.

The PHA may approve a live-in aide to reside with a family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter. In addition the manufactured home also must meet the following requirements:

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. A manufactured 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 wind overturning and sliding.

Manufactured Home Space Rental

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space. Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the PHA. The PHA will not approve a lease for a manufactured home space until the PHA has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the PHA will re-determine that the rent is reasonable.

The PHA will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The PHA will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the PHA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the PHA, the owner must provide the PHA information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

During the term of a Voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of: The payment standard minus the total tenant payment; or the rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the PHA: rent to owner for the manufactured home space; owner maintenance and management charges for the space; the utility allowance for tenant paid utilities.

Utility Allowance Schedule for Manufactured Home Space Rental

The PHA will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move. Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place. Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

Chapter 20

PROGRAM INTEGRITY

INTRODUCTION

The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The PHA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

The PHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This Chapter outlines the PHA's policies for the prevention, detection and investigation of program abuse and fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA's attention, to investigate such claims.

The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips. The PHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

Internal File Review. A follow-up will be made if PHA staff discovers (as a function of a certification or recertification, an interim re-determination, or a quality control review),

information or facts which conflict with previous file data, the PHA's knowledge of the family, or is discrepant with statements made by the family.

Verification of Documentation. A follow-up will be made if the PHA receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

Program Orientation Session. Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Program Briefing Certificate" to confirm that all rules and pertinent regulations were explained to them.

Resident Counseling. The PHA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and explanation of Forms. Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent re-certifications, each participant file 5 % of files will be reviewed. Such reviews shall include, but are not limited to: assurance that verification of all income and deductions is present; changes in reported Social Security Numbers or dates of birth; authenticity of file documents; review of signatures for consistency with previously signed file documents; and verification that all forms are correctly dated and signed.

Observation. The PHA Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Public Record Bulletins may be reviewed by Management and Staff.

State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits

Credit Bureau Inquiries. Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances: at the time of final eligibility determination and/or when an allegation is received by the PHA wherein unreported income sources are disclosed.

D. THE HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all participating families to report suspected abuse to the Authority. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The Authority will not follow up on allegations which are vague or otherwise non-specific. They will only review allegations which contain one or more independently verifiable facts.

File Review. An internal file review will be conducted to determine if the subject of the allegation is a client of the PHA and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the PHA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the Occupancy Department will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If the landlord has been overpaid by the PHA or the family as a result of fraud, misrepresentation or violation of the Contract, the PHA may terminate the Contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the

tenant, as applicable.

F. INVESTIGATING ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Executive Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Verification of Credit. In cases where the financial activity conflicts with file data, a *Verification of Credit* form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review.

Other Agencies. Investigators, case workers or representatives of other benefit agencies may be contacted.

Public Records. If relevant, the PHA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

Interviews with Head of Household or Family Members. The PHA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among PHA Staff unless they are involved in the process, or have information which may assist in the investigation.

H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation occurred, the PHA will review the facts to determine: the type of violation (procedural, non-compliance, fraud); whether the violation was intentional or unintentional; what amount of money (if any) is owed by the family; if the family is eligible for continued occupancy.

J. ACTION PROCEDURES FOR DOCUMENTED VIOLATIONS

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

1. **Procedural Non-compliance.** This category applies when the family "fails to" observe a procedure or requirement of the PHA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are: failure to appear at a pre-scheduled appointment and/or failure to return verification in time period specified by the PHA.

- (a) **Warning Notice to the Family.** In such cases a notice will be sent to the family which contains the following: a description of the non-compliance and the procedure, policy or obligation which was violated; the date by which the violation must be corrected, or the procedure complied with; the action which will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA; the consequences of repeated (similar) violations.
2. **Procedural Non-compliance - Overpaid Assistance.** When the family owes money to the PHA for failure to report changes in income or assets, the PHA will issue a Notification of Overpayment of Assistance. This Notice will contain the following: a description of the violation and the date(s); any amounts owed to the PHA; a 14 business day response period; and the right to disagree and to request an informal hearing with instructions for the request of such hearing.
 - (a) Participant Fails to Comply with PHA's Notice. If the Participant fails to comply with the PHA's notice, and a family obligation has been violated, the PHA will initiate termination of assistance.
 - (b) Participant Complies with PHA's Notice. When a family complies with the PHA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will

complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.

- 3. Intentional Misrepresentations.** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not: the participant had knowledge that his/her actions were wrong, and the participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certification, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong-doing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) That the act was done repeatedly.
- (c) If a false name or Social Security Number was used.
- (d) If there were admissions to others of the illegal action or omission.
- (e) That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- (f) That the participant falsified, forged or altered documents.
- (g) That the participant uttered and certified to statements at a interim (re)determination which were later independently verified to be false.

- 4. Dispositions of Cases Involving Misrepresentations.** In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

(a) Criminal Prosecution: If the PHA established criminal intent, and the case meets the criteria for prosecution, the PHA will refer the case to the local State or District Attorney, notify HUD's OIG, and terminate rental assistance.

(b) Administrative Remedies: The PHA may:

Terminate assistance and demand payment of restitution in full or;

Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the PHA's repayment policy.

Chapter 21

GUIDANCE ON HUD'S LEAD SAFE HOUSING RULE

SUBJECT: Guidance on HUD's Lead Safe Housing Rule Pertaining to Elevated Blood Lead Levels for the Public Housing, Housing Choice Voucher, and Project-Based Voucher Programs

A. Purpose

This Notice provides general guidance to public housing agencies (PHAs), Housing Choice Voucher (HCV) property owners and Project-Based Voucher (PBV) property owners on the required actions they must take when a child in a family receiving public housing, HCV or PBV assistance is identified as having an elevated blood lead level (EBLL). The notice focuses on (but is not limited to) recent changes to HUD's Lead Safe Housing Rule (LSHR) as it relates to children identified as an EBLL. The Lead Safe Housing Rule is codified as 24 Code of Federal Regulations (CFR) Part 35, subparts B – R. This Rule was effective February 13, 2017.¹ PHAs were to complete all policy updates and comply with the Rule by July 13, 2017.

The LSHR applies to “target housing,” which, under the LSHR, is any housing constructed prior to 1978, except housing for households for the elderly or persons with disabilities or any Obedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).²

The key changes in the LSHR include revising HUD's “Environmental Investigation Blood Lead Level” (EIBLL) to the EBLL, enhancing the level of investigation required for a housing unit of a child with an EBLL to an “environmental investigation” and adding a requirement for testing in other covered units when a child is identified in a multiunit property.

This Notice will remain effective until amended, superseded, or rescinded.

B. Lead Poisoning

Childhood lead poisoning has serious negative consequences on childhood growth and development. The U.S. Centers for Disease Control and Prevention (CDC) has consistently affirmed that deteriorated lead-based paint and lead-contaminated dust are the most hazardous sources of lead exposure in children. Lead-based paint can be found in homes built before 1978, with an increased prevalence in very old homes with original painted windows, doors, and trim (Jacobs et al., 2002; Cox et al., 2015).

In 2012, the CDC lowered its reference level for lead in the blood of children under age 6 to 5 micrograms of lead per deciliter of blood, and provided guidance for health departments and

medical professionals at www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf. On January 13, 2017, HUD amended the LSHR to align it with CDC's updated guidance.

Consistent with CDC's guidance, HUD is now using the reference level of 5 micrograms per deciliter to identify children with an EBLL. This new level is the blood lead level of the highest 2.5 percent of U.S. children ages 1 to 5 years. CDC may revise this level in the future, and if so, HUD will update its EBLL as used under the LSHR, via the notice and comment process, as provided by the definition of EBLL in the amendment (24 CFR 35.110).

However, if a state or local government establishes more protective standards in response to lead in children's blood, LSHR's section 35.150 directs PHAs to follow those standards.

C. **Key Definitions**

Assisted Units – the Lead Safe Housing Rule covers federally-assisted and federally-owned “target” housing, which includes units assisted under Sections 8 and 9 of the United States Housing Act of 1937, as amended.¹

Designated Party – for purposes of this Notice, the housing agency or the property owner, as indicated in the applicable section, is responsible for complying with applicable requirements.

Elevated Blood-Lead Level (EBLL) - elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted.

A confirmed concentration is one that is measured by a venous (from a vein) blood draw, and not a finger prick/quick capillary screening test.

Environmental Investigation – a risk assessment with additional questions for the family regarding other sources of lead exposure (e.g., water, pottery, daycare settings), and testing of other potential sources of lead exposure in accordance with Chapter 16, Investigation And Treatment Of Dwellings That House Children With Elevated Blood Lead Levels, of [HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing](#) (current edition) (the HUD *Guidelines*).²

Notes: Chapter 16 of the HUD *Guidelines* includes a detailed description of the differences between an environmental investigation and a risk assessment. Testing includes, at a minimum, house dust, paint/coatings that are not intact or subject to friction, and bare soil, especially in play areas. Testing of drinking water is done in certain circumstances, based on the

¹ In the case of local non-traditional activities under the Moving to Work Demonstration Program, this includes units funded by Sections 8 and 9.

² https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines.

family questionnaire, discussion with the child’s case manager, and additional information, such as knowledge that the community drinking water is known to be at risk; the family’s home is served by a private well; history suggests contamination; or no other sources of lead can be found.

Expected to Reside – actual knowledge that a child will reside in a 0-bedroom dwelling unit or in a dwelling unit reserved or designated for the elderly and/or persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that child will reside in the dwelling unit.

Notes: The condition of “actual knowledge” differs from the potential for a child under age 6 to reside there sometime in the future; the potential does not create an expectation under the LSHR. While a resident woman being known to be pregnant creates actual knowledge, an expectation is also created when a child under age 6 or a pregnant woman is otherwise known to be moving into the unit, such as by the woman or another person having signed a lease or other rental agreement for the child and/or woman (as applicable) to move in.

Index Unit – the unit where a child with an elevated blood lead level resides.

Multi-unit Property - a residential property containing two or more dwelling units. For the purposes of the LSHR, all buildings with assisted units or servicing those buildings (e.g., garages, toolsheds, etc.) associated with the property are covered by the requirements.

Other Covered Units - federally-assisted units where a child under age 6 resides or is expected to reside in a multiunit property that has an index unit. The child’s age is considered as of the date the Environmental Investigation in the index unit and associated common areas is completed.

Target Housing - any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless a child of less than 6 years of age resides or is expected to reside in such housing). In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.⁵

Note: The Consolidated Appropriations Act, 2017 revised the definition of target housing to include any 0-bedroom dwelling in which a child who is less than 6 years of age resides or is expected to reside. This guidance reflects that change.

D. Reminder of Requirements for the Project-Based Voucher (PBV) Program

PBV units, while funded through the Tenant-Based Rental Assistance/HCV program appropriation, are regulated under the LSHR as project-based assistance under 24 CFR Part 35, Subpart H. This program clarification was issued in a 2004 amendment to the LSHR.⁶ Under Subpart H, owners of target housing properties receiving more than \$5,000 annually per unit in project-based assistance are required to ensure that target housing receives a lead risk assessment

by a certified risk assessor, regardless of whether there is a child under age 6 in residence, and that occupants are notified of the results of the risk assessment.

Owners must ensure that lead-based paint hazards identified by the risk assessment receive interim controls by a certified renovation or abatement firm, that clearance by a certified risk assessor is passed before re-occupancy occurs, and that assisted occupants are notified of the results of the hazard reduction activity. Owners must monitor and maintain any remaining lead based paint and the hazard controls, with annual visual assessments and a reevaluation with dust testing every two years by a certified risk assessor.

Owners in the PBV program are also responsible for complying with notification and response steps for a child with an EBLL under section 35.730. Because the comprehensive requirements of Subpart H may not be broadly understood by all PHAs and owners participating in the PBV program, HUD plans to issue additional guidance to assist them in complying with the requirements. More information can be found at www.hud.gov/healthyhomes.

E. Summary of Changes and Requirements

The LSHR uses the approach of having a “designated party” responsible for complying with its requirements under a particular assistance program. Under some subparts of the LSHR, just the property owner is responsible, under some subparts, just the PHA, and under other subparts, the owner is responsible for certain activities, and the PHA, for others. Specifically:

For public housing, the PHA is the designated party and is responsible for all the activities regarding EBLL response.

For the PBV project-based assistance program, the owner is the designated party and is responsible for all the activities regarding EBLL response.

For HCV tenant-based rental assistance program, while the PHA is the designated party, the LSHR provides that the owner is responsible for certain EBLL response activities and the PHA other EBLL response activities.

The update to the LSHR revised the type of evaluation that must be performed for the housing unit of a child with an EBLL, and added risk assessment requirements covering certain other units, and new reporting requirements. Under the new regulations, the evaluation for the child’s unit must be an environmental investigation.

Public Housing

For public housing, when a child under 6 is identified with an EBLL, the PHA must take the following steps. (For a more detailed explanation, please refer to section 6.):

- **Initial notification of a confirmed case to HUD:** The PHA must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.
- **Initial notification of a confirmed case to public health department, when necessary:** The PHA must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.
- **Verification of the case, when necessary:** If a PHA learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, the PHA must immediately verify the report with the health department or medical health care provider.
- **Environmental Investigation:** The PHA must conduct an environmental investigation of the child's unit and the common areas servicing that unit within 15 calendar days in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units, as described in section I below.
- **Control:** The PHA must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section I below.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the PHA must notify all residents of lead evaluation and hazard control activities.
- **Follow-up notification:** The PHA must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of each activity.
- **Ongoing maintenance and reevaluation:** As already required by the LSHR in sections 35.1120(c) and 35.1355(a), after the work passes clearance, the PHA must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. As also already required by the LSHR in section 35.1355(b), the PHA must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The following table summarizes the responsibilities of the PHA for compliance when a child in the public housing program is identified with an EBLL.

	Responsible Entity
Activity	PHA
Initial notification to HUD of confirmed case	√
Verification, if necessary	√
Initial notification of confirmed case to public health department	√
Environmental investigation	√
Lead hazard control	√
Clearance after work completed	√
Follow-up notification to HUD	√
Notification to other residents	√
Ongoing LBP maintenance	√
Ensuring compliance with LSHR	√

Housing Choice Voucher (HCV) Program

For Housing Choice Voucher (HCV) units, when a child under 6 is identified with an EBLL, the PHA or the owner, as described below, must take certain steps. (For a more detailed explanation, please refer to section 6.) For the HCV program, the regulations identify the PHA as the designated party for ensuring compliance with all the regulations. This includes the same steps as for public housing, except that the owner is responsible for some of the steps, and the PHA, other steps. In addition, for several steps, as described below, the PHA may wish to collaborate with the owner to expedite implementation.

The Owner is responsible for:

- **Initial notification of a confirmed case to HUD:** Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.
- **Initial notification of the public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.
- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the

owner should immediately convey the information to the PHA so the PHA may notify the public health department, if the PHA has indicated, or indicates at this time, that it wishes to collaborate with the owner on implementation of the rule, as described below.

- **Control of lead-based paint hazards:** Completing the reduction of lead-based paint hazards in the index unit and common areas servicing that unit that were identified by the environmental investigation conducted by the PHA within 30 calendar days, using a certified lead-based paint abatement firm or certified lead renovation firm. Work shall include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 35.1340.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- **Ongoing maintenance:** Maintaining covered housing without deteriorated paint if there is child under 6 in the family in accordance with sections 35.1220 and 35.1355(a).

The PHA is responsible for:

- **Verification of the case, when notification is not from a medical health care provider:** The PHA may wish to collaborate with the owner on this verification of an EBLL case, such as by agreeing with the owner to receive the information about the possible case. The PHA shall immediately verify the information with the public health department or other medical health care provider.
- **Environmental Investigation:** Conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the child's unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted in other covered units with a child under age 6 and the common areas servicing those units.
- **Monitoring of owner's compliance with LSHR:** Monitoring the owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. PHAs can perform oversight of this in conjunction with periodic Housing Quality Standards (HQS) inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child's unit or common areas servicing that unit. This includes such actions as (see above) monitoring the owner's:
 - Notifying HUD of a confirmed case;
 - Notifying the public health department when any other medical health care professional notified the owner of the case;
 - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;

- Ensuring that any required lead hazard control (including passing clearance) is complete;
- Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
- Ensuring that ongoing maintenance of paint is conducted in accordance with sections 35.1220 and 35.1355(a).
- **Control:** Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common areas servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

The PHA may wish to collaborate with the owner on the response, including providing the names of qualified and certified lead hazard control contractors, providing for the clearance examination, and ensuring notification to other residents in a multi-unit property.

The following table summarizes the responsibilities of PHAs and HCV rental property owners for compliance when a child in the HCV program is identified with an EBLL.

Activity	Responsible Entity	
	PHA	HCV Owner
Initial notification of confirmed case to HUD	*	√
Verification, when necessary	√	*
Initial notification of confirmed case to public health department, when necessary	*	√
Environmental Investigation	√	
Lead Hazard Control		√
Clearance after work completed	*	√
Notification to other residents		√
Ongoing LBP Maintenance		√
Monitoring of owner's compliance with LSHR and HQS	√	

* The PHA may wish to collaborate with the owner on implementing this process, as described above.

Project-Based Vouchers (PBV)

For project-based vouchers, when a child under 6 is identified with an EBLL, the owner must take the following steps. (For a more detailed explanation, please refer to section F.) For several

steps, as described below, the PHA may wish to collaborate with the owner to expedite implementation.

The owner is responsible for:

- **Initial notification of a confirmed case to HUD:** Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.
- **Initial notification of a confirmed case to public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.
- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner shall immediately convey the information to the public health department, asking that department to verify the information to determine whether the child has an EBLL. The PHA may wish to collaborate with the owner on this verification process, such as by agreeing with the owner to receive the information, convey the information to the public health department and ask for that department’s verification, and convey the result of the verification to the owner for further action if the case is confirmed or closing out the action if not.
- **Environmental Investigation:** Within 15 calendar days, conducting an environmental investigation of the child’s unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines*, as described in section F below. The PHA may wish to collaborate with the owner on this evaluation process, such as by agreeing with the owner to conduct the environmental investigation. If lead-based paint hazards are found in the child’s unit (the index unit) in a multiunit property, see section I below regarding risk assessments to be conducted within 30 or 60 calendar days in other covered units with a child under age 6 and the common areas servicing those units depending on the number of units.
- **Control:** The owner must control (and clear) any lead-based paint hazards identified by the environmental investigation within 30 calendar days using a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards within 30 or 90 days depending on the number of units as described in section I below.

- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- **Follow-up notification:** The owner must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of the deadline for each activity. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forward them to the Field Office.
- **Ongoing lead-based paint maintenance:** As already required by the LSHR in sections 35.715(c) and 35.720(b), after the work passes clearance, the owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. The requirements for ongoing LBP maintenance are in section 35.1355(a).
- **Reevaluation if PBV exceeds \$5,000 per unit per year:** As already required by the LSHR in section 35.715(c), if the PBV is for more than \$5,000 per unit per year, the owner must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The PHA is responsible for:

- **Monitoring of owner's compliance with LSHR:** Monitoring the PBV owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. This includes such actions as (see above) monitoring the owner's compliance in:
 - Notifying HUD of a confirmed case;
 - Notifying the public health department when any other medical health care professional notified the owner of the case;
 - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
 - Ensuring that any required lead hazard control (including passing clearance) is complete;
 - Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
 - Ensuring that ongoing maintenance of paint is conducted.

The PHA may wish to collaborate with the owner on this monitoring, such as in ways described above.

- **Housing Assistance Payments Contract monitoring:** For the owner to allow the resident family to return to full occupancy of their housing unit, the owner must notify the family of the completion of work and passing of clearance. Because the PHA will be monitoring the owner’s compliance with the LSHR in accordance with the HAP contract between the PHA and the owner, the PHA may wish to collaborate with the owner on this monitoring process, such as by agreeing to have the owner inform the PHA that the lead hazard control (including passing clearance) is complete, and providing documentation.
- **Lead Hazard Control:** Ensuring the owner completes and clears the control of lead based paint hazards identified in the Environmental Investigation of the index unit and the common area servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section I below.
- **Ongoing monitoring:** Units with identified lead-based paint hazards must have annual re-examinations for deteriorated paint and/or failed hazard control. This can be done in conjunction with periodic HQS inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child’s unit or common areas servicing that unit.

The following table summarizes the responsibilities of the owner for compliance when a child in the PBV program is identified with an EBLL, and ways in which the PHA can collaborate with the owner in such a case.

Activity	Responsible Entity	
	PHA	PBV Owner
Initial notification of confirmed case to HUD	*	√
Verification, when necessary	*	√
Initial notification of confirmed case to public health department, when necessary	*	√
Environmental Investigation	*	√
Lead Hazard Control		√
Clearance after work completed	*	√
Notification to other residents		√
Ongoing LBP Maintenance		√
Periodic Reevaluation and Response, if >\$5,000/unit/year	√	√

Monitoring of owner's compliance with LSHR	√	
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* The PHA may wish to collaborate with the owner on implementing this process, as described above.

F. Responding to EBLs, Environmental Investigations, and Lead Hazard Control

Verification:

The first step a PHA or owner, as applicable, based on the type of assistance, or the PHA on behalf of the owner, if they have decided to collaborate in that way (see section 5, above), must take when learning of a child with an EBL from a parent, guardian, or other person or entity that is not a medical health care provider is to verify the results, and determine whether it is a confirmed EBL. In accordance with Chapter 16 of the HUD *Guidelines*, a confirmed EBL is one measured through a venous (i.e., from a vein) blood draw, or two capillary blood specimens, drawn within 12 weeks of each other, both with elevated lead concentration. If the parent or guardian suspects that a child under 6 has an EBL based on a single finger print, they should see a medical health care provider to obtain confirmation.

PHAs and owners can verify the report with the local health department or the child's medical health care provider. For the HCV and PBV programs, the owner may wish to collaborate with the PHA to notify the PHA of the EBL within 5 days so that the PHA can notify the public health department or the child's medical health care provider.

If the parent or guardian provides the PHA or owner, as applicable, with a written EBL diagnosis from a medical healthcare professional, or the public health department notifies the PHA or owner, as applicable, of the case, no additional verification is needed.

If an EBL has been reported but not verified, the PHA or owner shall make at least 2 attempts to verify the information with the medical health care provider or health department. If the PHA's verification attempts fail, the PHA must inform the Field Office, which must attempt its own verification and/or inform OLHCHH, which will attempt the verification.

Once an EBL has been verified, the PHA (for public housing) or owner (for PBV or HCV housing), as applicable, must notify their field office representative and OLHCHH within 5 business days. Notifications to OLHCHH must be by done via email to LeadRegulations@hud.gov. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forwarding them to the Field Office and OLHCHH.

In the notification to their field office representative and OLHCHH, the PHA or owner, as applicable, must provide:

- PHA code and name, if the PHA is providing the notification, or Owner’s name and address, if the owner is;
- Date of EBLL test result;
- Program (public housing, HCV, project-based vouchers);
- Unit address and, if the housing is in a multi-unit property or development, the development name; and
- Whether the PHA or owner has notified the public health department of the EBLL, or been notified by the health department, and the date of that notification.

Information emailed to HUD should not include the child’s name or blood result. This information is considered personally identifiable information (PII), and is also confidential medical information which shall be maintained in accordance with the PHA’s policy for private medical information. If the PHA must transmit PII, it shall be done in a secure manner or in an encrypted email. For more information on Privacy Protection Guidelines for PHAs, see [PIH2015-06](#).

Investigation:

Next, the PHA or owner, as applicable, based on the type of assistance, or the PHA on behalf of the owner, if they have decided to collaborate in that way (see section 5, above), must next ensure that a certified Lead-Based Paint Risk Assessor performs an “environmental investigation,” as defined above, in the child’s home and any common areas that service the unit.

The environmental investigation must be completed within 15 calendar days after verification or notification by a public health department or other medical health care provider. PHAs and owners can find certified lead risk assessment firms through either their state lead licensing agency or EPA’s website at www.epa.gov/lead.

In some cities and counties, the local public health department will evaluate the child’s home for lead-based paint hazards and other possible sources of lead exposure when a child is found with an EBLL. In these instances, the PHA or owner, as applicable, is not required to perform an additional environmental investigation, and can rely on the results of the health department’s evaluation.

After receiving the results of an environmental investigation (or an evaluation report from the health department), the PHA must notify their assigned HUD field office contact within 10 business days and the family of the results within 15 calendar days. The notifications must include the date the investigation was completed. If the evaluation was completed in a multiunit property, the PHA must also notify all residents that an evaluation was completed in accordance with section 35.125. This must be done by letter or notice delivered to each occupied dwelling unit affected by the evaluation, and not by central posting. The LSHR prohibits, for the protection of the privacy of the child and the child’s family or guardians, notice of environmental investigation being posted to any centrally located common area. (See section 35.125(c)(4)(iii).)

Required Lead-Based Paint Hazard Control

If lead-based paint hazards are identified by the environmental investigation, the hazards must be addressed within 30 calendar days of receiving the results. This means performing any necessary lead-based paint hazard control work in the unit and common areas servicing the unit, and conducting a clearance examination on the unit and common areas when the work is complete. The work must be performed by a certified lead abatement or lead renovation firm, with the clearance examination performed by a certified risk assessor or clearance sampling technician as described in section 35.1340.

The party that does the hazard control work and the clearance examination depends on the assistance program:

- In the public housing program, the PHA is responsible for completing the hazard control work and conducting the clearance examination.
- In the HCV and PBV programs, the owner is responsible for completing the hazard control work and conducting the clearance examination. The PHA may wish to collaborate with the owner on conducting the clearance examination, as described in section 5, above.

The HUD field office must be notified of the lead hazard control work that was completed and the results of the clearance examination within 10 business days of passing clearance. The party that does this notification depends on the assistance program:

- In the public housing program, the PHA is responsible for notifying the HUD field office.
- In the HCV and PBV programs, the owner is responsible for notifying the HUD field office. The PHA may wish to collaborate with the owner on notifying the HUD field office, as described in section 5, above.

The table below summarizes the timelines for environmental investigations, lead hazard control work, clearance, and field office notifications when the PHA learns a child has an EBLL.

Activity	Timeframe
Notify HUD field office and OLHCHH of EBLL case	Within 5 business days after verification of the EBLL
Conduct environmental investigation	Within 15 calendar days after verification of the EBLL
Notify HUD field office of results of environmental investigation	Within 10 business days after receiving the results of the environmental investigation
Complete lead hazard control work and clearance	Within 30 calendar days of receiving the results of the environmental investigation.

Notify HUD field office of results of clearance	Within 10 business days after clearance
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G. Index Units

In a case where the child discovered to have an EBLL lives in a multiunit property, the child’s home is considered the “index unit” under the new regulations. As described in section 9 below, if the index unit is found to contain lead-based paint hazards, additional evaluation is required for other assisted target housing units in the property where children under age 6 reside (known as other “covered units”). Note that a multiunit property can include multiple buildings, and all buildings are covered if they meet the definition of target housing. This requirement already existed for public housing under 35.1130(f). Under this new rule, the requirement has been extended to the HCV and PBV programs.

H. Index Units Recently Tested

An index unit may not need a full environmental investigation under the following scenarios:

- An environmental investigation was performed by the health department or another party between the time that the child’s blood was last sampled and the date that the PHA, designated party or owner (as applicable) was notified of the EBLL. If a risk assessment was performed, a certified risk assessment firm can be brought in to conduct the elements of an environmental investigation that go beyond the requirements of a risk assessment.
 - If a risk assessment was performed on the unit prior to the date that the child’s blood was last sampled, the results of the risk assessment cannot be relied on, and a full environmental investigation must be performed.

- If the unit is scheduled for redevelopment or demolition, and the tenants are expected to be relocated within 45 calendar days. In this scenario, the PHA does not have to perform the environmental investigation if the family is relocated within 15 calendar days.
 - In this scenario, the PHA may not know if the index unit contains lead-based paint hazards. Without test results, the PHA would have to presume all covered units contain lead-based paint hazards.
 - Allowing the family to move from the index unit would not exempt any other covered unit in the property from the need for a risk assessment, unless those units are also scheduled for redevelopment or demolition and relocation is scheduled within 45 days.
 - If the PHA chooses to perform an environmental investigation in the index unit anyway, and finds there are no lead-based paint hazards, additional testing or expedited relocation of families in covered units would not be necessary.

I. Other Covered Units of the Property (and Common Areas Servicing those Units)

If the environmental investigation indicates there are lead-based paint hazards in the index unit or common areas servicing that unit, any other assisted units in the property with a child under age 6 residing (“Other Covered Units”) must receive a risk assessment, as must common areas servicing those units. This includes other assisted units designated as housing for the elderly and/or persons with disabilities where a child under age 6 resides or is expected to reside. The party that conducts the risk assessments depends on the assistance program:

- In the public housing program, the PHA conducts the risk assessments.
- In the HCV and PBV programs, the owner is responsible for conducting the risk assessments. The PHA may wish to collaborate with the owner on conducting the risk assessments, as described in section 5, above.

The risk assessments of the other covered units must be conducted within 30 calendar days of receiving the results of the environmental investigation for a property with 20 other covered units or fewer, and within 60 calendar days for a property with more than 20 other covered units.

While a PHA or owner may, for its own strategic reasons, choose to conduct risk assessments on all the other assisted dwelling units with a child under age 6 (or even all the other assisted dwelling units or all the other dwelling units), random sampling of other covered dwelling units to be assessed is permissible in properties with more than 20 covered dwelling units for pre-1960 properties, and more than 10 covered dwelling units for 1960-1977 properties. HUD’s sampling protocol can be found in Table 7.3 of the *Guidelines*, on page 7-38. For example, for a 1925 multiunit property in which there are 47 other covered units (with certain characteristics identified in the table) shows that at least 31 units are to be sampled randomly.

If the evaluation was completed in a multiunit property, all assisted residents must be notified that an evaluation was completed. The party that conducts the resident notification depends on the assistance program:

- In the public housing program, the PHA is responsible for notifying the assisted residents.
- In the HCV and PBV programs, the owner is responsible for notifying the assisted residents. The PHA may wish to collaborate with the owner on notifying the assisted residents, as described in section 5, above.

All lead-based paint hazards identified by the risk assessments must be controlled. As under the original LSHR, if a random sampling of units and/or common areas is used in the risk assessment, if lead-based paint hazards were found in that sample, all units and/or common areas represented by the random sampling must have corresponding building components that have lead-based paint hazards in sampled and un-sampled units controlled, because the components in un-sampled units are presumed to have lead-based paint hazards.

The table below summarizes the timelines for risk assessments, lead hazard work, and clearance for other covered dwelling units depending on the number of units in the property.

Activity	If the Property Has 20 or Fewer Other Covered Units	If property Has More than 20 Other Covered Units:
Conduct risk assessment	Within 30 calendar days of receiving the results of the environmental investigation	Within 60 calendar days of receiving the results of the environmental investigation
Complete lead hazard control work and clearance	Within 30 calendar days of receiving the results of the risk assessment	Within 90 calendar days of receiving the results of the risk assessment

J. Exemptions for Other Covered Units

A covered dwelling unit *is* exempt from needing a risk assessment under the following scenarios:

- The property has been certified by a State- or EPA-certified lead inspector as lead-based paint free or all lead-based paint has been identified and removed through abatement, and clearance has been achieved. Lead-based paint free means that the housing has been found to be lead-based paint free by a State- or EPA-certified lead inspector in accordance with Chapter 7 of the Guidelines. This exemption would not be applicable to units that have undergone lead abatement through enclosure or encapsulation, because they still contain lead-based paint behind the enclosure or encapsulant.
- The dwelling unit is scheduled for demolition. While units scheduled for redevelopment are generally not exempt, language in the preamble to the Final Rule permits exemption of a dwelling unit for redevelopment where start of construction and completion of tenant relocation is to occur within 45 calendar days (i.e., the sum of the 15-day period for conducting the environmental investigation and the 30-day period for conducting lead hazard control in the unit). In that scenario, the dwelling unit does not need a risk assessment; however, the family must be relocated out of the unit within 15 calendar days.

A covered dwelling unit *may* be exempted from needing a risk assessment if one was recently performed and hazards were already controlled. Specifically:

- The PHA or owner conducted a risk assessment of the covered dwelling unit in question and the common areas servicing that unit, and any necessary interim controls on identified lead-based paint hazards were performed, including passing clearance. The risk assessment and controls must have been performed between the date the child’s blood was last sampled and the date the owner received the notification of the elevated blood lead level; and

- The PHA or owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report; and

Certified documentation is provided to the HUD field office to this effect, including copies of the risk assessment and the results, and a copy of the clearance exam. The party that provides this documentation depends on the assistance program:

- In the public housing program, the PHA is responsible for providing the documentation to the HUD field office.
- In the HCV and PBV programs, the owner is responsible for providing the documentation to the HUD field office. The PHA may wish to collaborate with the owner on providing the documentation, as described in section 5, above.

K. Monitoring and Enforcement

HUD may request documentation of compliance with the LSHR at any time, for the HCV, PBV, and public housing programs.

HCV and PBV Program

PHAs are responsible for ensuring compliance with the regulations, and, for the HCV programs, funding initial lead evaluations, but the HCV or PBV owner has certain requirements that the PHA must oversee in accordance with their housing assistance payment contract with the owner, including:

- The owner is responsible for promptly notifying the HUD field office and the Office of Lead Hazard Control and Healthy Homes of EBLL cases, although the PHA may wish to collaborate with the owner on this notification, as described in section 5, above.
- The owner is responsible for performing the lead hazard control work, and for incorporating ongoing lead-based paint maintenance activities into regular building operations (see section 35.1355(a)), including conducting a visual assessment for deteriorated paint, dust-lead hazards, bare soil, and the failure of any hazard reduction measures at unit turnover and every twelve months.

The PHA can assist owners in finding certified contractors, or in obtaining training and submitting the documentation to become certified to perform lead hazard control work themselves. See the EPA lead website, www.epa.gov/lead. PHAs can also opt to have a certified risk assessor on staff with the PHA becoming a certified risk assessment firm, where required, or available via contract (the PHA does not have to become a certified risk assessment firm). PHAs must also ensure units that had lead-based paint hazards identified receive annual and turnover visual assessments to ensure that the interim controls have not failed and that there is no new

deteriorated paint. The party that conducts the visual assessments depends on the assistance program:

- In the public housing program, the PHA is responsible for conducting the visual assessments.
- In the HCV and PBV programs, the owner is responsible for conducting the visual assessments. The PHA may wish to collaborate with the owner on conducting the visual assessments, as described in section 5, above.

If the required evaluation and lead hazard control work is not completed for the index unit or other covered units within the established timeframes, the dwelling unit(s) shall be considered out of compliance with HQS. Enforcement may include suspension, reduction, or termination of housing assistance payments (HAP). If the owner does not meet the requirements after enforcement, the unit is not in compliance with HQS, and the PHA must terminate the HAP contract and assist the family in finding a unit that will meet HQS and is lead-safe. A lead safe unit is one that is either built after 1977, or one built before 1978 that has had a risk assessment, control of any lead-based paint hazards identified, and met clearance. PHAs should follow the existing regulations at section 982.404 for HQS enforcement of the HCV and PBV programs before the family moves in. (If the owner or PHA, as applicable, is unable to comply with the deadline for lead hazard control work due to weather conditions, the PHA can allow additional time in accordance with section 35.115(a)(12).)

See the Non-Reporting segment below for guidance on instances when the owner has not reported an EBLL case to HUD or the public health department, either directly or through the PHA, or when the PHA, after being notified of an EBLL case by the owner, has not reported the case to HUD or the public health department, when required.

Public Housing Program

Compliance with the LSHR is included as part of the Capital Fund Program regulations at Part 905 Subpart H. PHAs annually certify compliance with new Capital Fund awards. PHAs that are not compliant with the LSHR may be subject to Sanctions described at Part 905-804, including limiting, withholding, reducing, or terminating Capital Fund or Operating Fund assistance.

PHAs that believe properties are exempt from the LSHR because leasing is done exclusively to elderly or persons with a disability can only qualify for this exemption if 1) the PHAs has a current, HUD-approved Designated Housing Plans, or 2) as described in the Quality Housing and Work Responsibility Act of 1998, the housing has been operating continuously as a mixed housing designated for both elderly and disabled residents. Evidence of the second option must be made available to HUD upon request. However, the Fair Housing Act prohibits PHA properties, including those designated for elderly and/or disabled occupancy, from excluding eligible families with children. Therefore, as described in section 3, regardless of the Designated

Housing Plan, if a child under six resides or is expected to reside in the dwelling unit, that unit and common areas serving the dwelling unit lose their LSHR exemption.

HUD's Real Estate Assessment Center (REAC) inspectors will continue to request to view lead evaluation reports, i.e., reports of lead-based paint inspections, lead risk assessments, environmental investigations, clearance examinations, and Lead Disclosure Rule forms as part of regular physical assessments of public housing developments. PHAs should ensure that all relevant lead paint evaluation records are available at the property for the inspector.

Non-Reporting in HCV, PBV, and Public Housing Programs

If a person becomes aware of an EBLL case where the owner or PHA did not report the EBLL to HUD or the public health department when required, the person should report the case to the OLHCHH at LeadRegulations@hud.gov, and to the Office of the Inspector General via the OIG Hotline at www.hudoig.gov/hotline. Under the Whistleblower Protection Act, it is illegal for HUD, PHAs, HCV property owners, and PBV property owners to retaliate against their employees and personal service contractors for disclosing a case to the OIG. See 5 U.S.C. § 2302; 41 U.S.C. § 4712.

L. Preparing for Full Compliance

HUD recommends that PHAs that manage public housing take steps now to ensure they can respond quickly if they are notified of an EBLL case. Preparations can include:

- Ensuring that all lead-based paint testing required under the existing LSHR is already completed and that records are securely stored at the property and are available for inspection.
 - Public housing subject to the existing rule should already have at minimum received a lead-based paint inspection, undergone lead-based paint abatement at the time of modernization, undergone interim controls of lead-based paint hazards identified by risk assessments before the abatement, and passed post-work clearance. ○ If any lead-based paint remained after the abatement, it should be monitored as part of ongoing building operations to ensure that abatement methods have not failed.
- Determining whether lead evaluations and hazard control work will be performed by trained, certified staff or through contract.
 - If new contracts require approval by the PHA's Board of Commissioners, the process should be started in advance of the need.

- Ensuring that all PHA employees who disturb paint in pre-1978 housing (e.g., through repairs or scraping) are certified as renovators under EPA’s Renovation, Repair, and Painting Rule. More information is in [PIH Notice 2011-44](#) and www.epa.gov/lead.
- Updating the Annual Plan and Five-Year Plan (or Moving to Work annual plan and report, as appropriate) with any additional testing or abatement not yet completed identified for action.
- Identifying a current contact person at the local or state health department for communication and data sharing. Under the existing LSHR, PHAs are required to exchange address data and any known EBLLs with health departments on a quarterly basis, so these contacts should have been made, but they may need updating.
- Informing residents of the risks of lead-based paint and encouraging them to have young children tested for lead in their blood. Blood lead testing is covered by Medicaid and often available for free at the local health department. Resident Service Coordinators can include obtaining local blood-lead testing as part of the information they make available to families with children.
- Continuing to disclose known lead-based paint, lead-based paint hazards, and all records or reports on lead-based paint or lead-based paint hazards, to residents as part of their lease of target housing units. Providing a copy of “Protect Your Family from Lead in Your Home” found at www.hud.gov/healthyhomes and www.epa.gov/lead/real-estatedisclosure.

Preparations for PHAs managing HCV housing should include:

- Ensuring that HQS inspectors have completed training in visual assessment for deteriorated paint posted at www.hud.gov/offices/lead/training/visualassessment/h00101.htm and are performing this enhanced visual inspection at initial and periodic inspections in target housing dwelling units when a family has a child under age six. (HQS inspectors who are certified lead risk assessors do not need the visual assessment training above; the subject is covered in their risk assessment course.)
- Determining whether lead evaluations will be performed by trained, certified staff or through a contract. If staff are to be certified, the PHA’s obtaining certification as a firm in the discipline(s) in which the staff will be certified.
- Confirming a current contact person at the local or state health department for communication and data sharing.
- Informing residents of target housing of the risks of lead-based paint and encouraging them to have young children tested for lead in their blood. Notify residents of how to promptly report EBLLs to the PHA. This may include written notice in the leasing package, and/or at the next regular reexamination.

- Informing and engaging HCV owners about lead safety and their obligations under the LSHR, including the Lead Disclosure Rule. Note that for project-based vouchers (PBV), the rules regarding lead-based paint are different from those applying to tenant-based vouchers. PHAs with project-based vouchers in their HCV programs should ensure that those PBV dwelling units with vouchers for a property valued at over \$5,000 per unit per year have already received a risk assessment and hazard control as outlined in 24 CFR 35, Subpart H, 35.700 et seq.; if the PBV vouchers are for no more than \$5,000 per unit per year, the units should have already received a visual assessment for deteriorated paint and paint stabilization as outlined in 24 CFR 35, Subpart H.

M. Data Sharing with Public Health Departments

At least quarterly, the PHA must provide an updated list of their HCV property target housing addresses to the health department so that the health department may evaluate whether they have information about incidences of EBLL cases in assisted housing. If the health department does not want, or is unable, to receive this data, the PHA should document this for HUD compliance reviews. PHAs should also attempt quarterly to obtain the names and addresses of children under age 6 with an EBLL that live in their owned or managed housing from the health department. If a match occurs, the PHA shall comply with all requirements of the LSHR and this guidance.

If a health department agrees to share EBLL information, the PHA must ensure that this information is protected and maintained as confidential, and is used only for the public health protection of children and their families from lead exposure.

N. For Further Information

Contact your field office representative, or HUD's Lead Regulations Hotline, Office of Lead Hazard Control and Healthy Homes, Programs and Regulatory Support Division, U.S. Department of Housing and Urban Development, 451 7th Street, SW (8236), Washington, DC 20410, 202-402-7698 (or, for persons who are deaf or hard of hearing, or have speech disabilities, the Federal Relay (FedRelay) teletype (TTY) number, 800-877-8339, or by other methods shown at www.gsa.gov/fedrelay), or LeadRegulations@hud.gov.

Information on the functions and activities of the HUD Office of Inspector General (OIG) is at www.hudoig.gov. Information on whistleblower protection is on the OIG's website at www.hudoig.gov/fraud-prevention/whistleblower-protection. To submit a question or complaint to the OIG, go to the OIG Hotline at www.hudoig.gov/hotline.

Appendix A: Optional PHA or Owner's Elevated Blood Lead Level Case Checklist

This checklist is intended as a courtesy for optional use by a public housing authority (PHA) or Owner in tracking the main steps for responding to an elevated blood lead level (EBLL) case; it is not intended to be submitted to the HUD Field Office nor the HUD Office of Lead Hazard Control and Healthy Homes.

PHA code (if applicable):

PHA or owner name:

Date of EBLL test result:

Program: _____ Public housing _____ Housing choice voucher _____ Project-based voucher

Dwelling unit address and (if applicable) development name:

Required Steps:

- ___ Verify EBLL case report with medical provider or health department, if report came from elsewhere.
- ___ Maintain confidentiality for all records related to the EBLL, and ensure the identity of the child or family are not disclosed to other residents in multiunit property.
- ___ Notify health department of EBLL case (if it is not already aware of it) within 5 days (either directly or through PHA).
- ___ Notify HUD field office contact and LeadRegulations@hud.gov of EBLL case within 5 days (either directly or through PHA).
- ___ Engage certified lead risk assessor to perform environmental investigation of child's unit within 15 days.
- ___ Notify residents of child's unit of results of environmental investigation within 15 days directly, but not by posting in common area.
- ___ If lead-based paint hazards are found in the child's unit or in a common area servicing that unit in a multiunit property, engage a certified lead abatement professional or certified renovation firm to control the hazards, and a certified lead risk assessor to conduct risk assessments of other assisted dwelling units with a child under age six ("other covered units").
- ___ In a multiunit property, notify residents that lead-based evaluation will be performed.
- ___ If lead-based paint hazards are identified in other covered units, engage a certified lead abatement professional or certified renovation firm, and notify other residents of the results of the risk assessment and that lead hazard control work will be performed.

- Ensure adequate occupant protection, including temporary relocation for EBLL family and/or other families, when required, until their dwelling unit passes clearance.
- Complete lead hazard control in child's unit and common area servicing that unit if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report.
- Complete lead hazard control in other covered units and common areas servicing those units if leadbased paint hazards are identified, within 30 days of receiving environmental investigation report, if up to 20 other covered units, or 90 days, if over 20 other covered units.
- Ensure all dwelling units and common areas that received lead hazard control pass clearance as determined by a certified risk assessor.
- In multiunit property, notify other residents that lead hazard control work was completed, and results.
 - Provide all documentation to the HUD field office contact in 10 business days.
 - Disclose information about lead-based paint hazards and all new records and report to residents upon lease initiation or renewal (if not already disclosed).

Chapter 22

PROJECT BASED HOUSING VOUCHERS

The Housing Authority of the County of Lebanon (HACL) has determined that project-basing some of its housing vouchers (not to exceed 20% of our authorized housing choice voucher units plus other federally favored units as described below) is in the community's interest. This effort is an appropriate option because it will deconcentrate poverty and expand housing and economic opportunity. The specifics of what the Housing Authority is seeking will be contained in an advertisement published in the manner prescribed by HUD that varies depending upon whether the units to be brought into the program are new construction, rehabilitated, or existing units. The actual selection of the units to be project-based shall also be in full accordance with HUD requirements. VASH and Family Unification Program vouchers can be project-based without additional HUD approval.

The 20% cap can be increased by an additional 10% in the following circumstances:

- A. 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. See <https://www.federalregister.gov/d/2012-17546> and <https://www.federalregister.gov/d/2016-13684>.
- B. The units are specifically made available to house families that are comprised of or include a veteran. A veteran is an individual who has served in the United States armed forces other than those dishonorably discharged.
- C. The units provide supportive housing to persons with disabilities or to elderly persons. The definitions of a person with disabilities and an elderly person are found at 24 CFR 5.403. Supportive housing means that the project makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to):
 - meal service adequate to meet nutritional need,
 - housekeeping aid,
 - personal assistance,
 - transportation services;
 - health-related services;
 - educational and employment services: or
 - other services designed to help the recipient live in the community as independently as possible.

The HACL will include any project based solicitation contemplating the use of this exception a requirement that the available services be listed and described I the response to the solicitation. Such supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance in the project. The HACL will not require participation as a condition of living in an excepted unit, although such services will be offered.

Note that in accordance with 24 CFR 983.354, with the exception of an assisted living facility, the owner of a PBV project may not require the assisted family to pay charges for meals or supportive services, and nonpayment of such charges by the family is not grounds for termination of tenancy. In the case of an assisted living facility (as defined in § 983.3) receiving PBV assistance, owners may charge families for meals or supportive services. These charges may not be included in the rent to owner or the calculation of reasonable rent.

- D. The units are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates.

These categories are separate and distinct from exceptions to the income-mixing requirements that limit the number and percentage of units within a particular project to which PBV assistance may be attached (no more than the greater of 25 units or 25 percent of the units), which is discussed later in this Administrative Plan.

If the HACL wishes to add PBV units under this exception authority, the HACL will submit all required information to the Field Office, and identify the exception category (or categories) for which the HACL will project-base additional units (up to an additional 10 percent above the normally applicable PBV program limitation) and the specific number of units that qualify under the exception category.

PBV units may only be covered by this 10 percent exception authority if the PBV HAP contract was first executed on or after April 18, 2017.

The 20% cap can be exceeded without limitation for units being converted under the Rental Assistance Demonstration (RAD), HUD-VASH units specifically issued for project basing, units that previously received certain other HUD housing subsidies as described in Notice published in the January 18, 2017 Federal Register, and for others reason that may be established by HUD.

SELECTION OF PROPERTIES TO PROJECT-BASE

- A. Selection Policy

The policies as set forth herein are adopted by the HACL for the purpose of administering the Section 8 Project-Based Voucher program.

The HACL will select Project-Based Voucher proposals by either of the following two methods:

1. HACL will request Project-Based Voucher Proposals. The HACL will not limit proposals to a single site or impose restrictions that explicitly or practically preclude other submissions of proposals for Project-Based Voucher housing on different sites.
2. The selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided) where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the Project-Based Voucher proposal selection date. Also, the earlier competitive selection proposal must not have involved any consideration that the project would receive Project-Based Voucher assistance. In this case, the vouchers can be project-based merely on a vote of the Board of Commissioners.

Once a decision to project-base units has been made but before the process begins, the HACL will electronically submit required information to HUD (see PIH Notice 2015-05 or successor requirements) at least 14 calendar days before issuing an RFP or selecting based on previous competition.

If the HACL will be selecting proposals under A(1) of this section, the HACL will issue a Request for Proposals (RFP) inviting interested owners to participate in the Project-Based Voucher Program. In the Project-Based Voucher Program, assistance is attached to the project and may be in the form of existing housing, newly constructed housing or rehabilitated housing. The RFP may include all forms of housing or individual forms (e.g., newly constructed housing only).

The HACL will advertise the RFP in the Lebanon Daily News, which is the newspaper of general circulation for the jurisdiction, once a week for three (3) consecutive weeks. Applicants shall have thirty (30) days from the last date of publication to respond by submitting their applications. Only applications submitted in response to the advertisement will be considered.

The HACL will prepare a detailed RFP package outlining;

- Program Requirements to include:
 - (1) ineligible housing types and prohibition of assistance for units in subsidized housing; and
 - (2) program accessibility requirements of section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8; and
 - (3) 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; and
 - (4) housing first occupied after January 19, 2017 shall have a broadband infrastructure available to all units.
- Application Requirements;
- Rating and Ranking of Applications; and
- Selection Process.

This information will be provided at the request of interested parties. The submission deadline date will also be a part of the RFP package. This will allow the HACL adequate time to examine the proposed site before the selection date. For existing housing, the HACL will inspect all of the units to determine whether the units substantially comply with the HQS.

After the closing date of the Request for Proposals, the HACL will review each proposal for completeness, determine if the proposed site meets the site selection standards, determine that the cap on number of Project-Based Voucher units in each project has not been exceeded, and score the proposal.

After the HACL staff has made its decision, the Executive Director will present the rating and ranking of proposals, along with the recommended selection based on the scores received to the HACL Board of Commissioners for approval.

Projects in which the HACL has an ownership interest and is being completed to improve, develop, or replace a public housing property or site can be project-based without competition as long as the projected hard costs equal or exceed \$25,000 per unit. For purposes of this section, an ownership interest means that the HACL or its officers, employees, or agents are in an entity that holds any such direct or indirect interest in the building, including, but not limited to an interest as: titleholder; lessee; a stockholder; a member, or general or limited partner; or a member of a limited liability corporation.

Prior to the selecting a project based on a previous competition or following a competition where the HACL has an ownership interest and is engaged in improving, developing or replacing a public housing property or site, the HACL will submit the information required by HUD at least 14 calendar days prior to issuing its RFP.

The HACL will give written notification to the successful proposer(s) within five (5) business days of Board approval. Public notice of the selected proposals will be published in the Lebanon Daily News, which is the newspaper of general circulation for the jurisdiction. The HACL will also notify those proposers that weren't selected within five (5) business days from Board approval. The denial letter will contain the procedures for appealing the selection.

The HACL will make documentation available for public inspection regarding the basis for the HACL selection of a Project-Based Voucher proposal.

If proposers wish to appeal the selection process, they may do so by presenting their complaint in writing to the Executive Director within ten (10) calendar days from the date contained on the denial letter from the HACL.

The HACL will seek to resolve all appeals in as informal a manner as possible. The appeal must contain, at a minimum, the following information:

- Name, address, and telephone number of the proposer appealing;
- Identification of the RFP being appealed;
- A statement of the reason for appealing;
- Supporting exhibits, evidence, or documents to substantiate any arguments; and
- The form of relief requested.

The HACL shall issue a decision on the appeal as expeditiously as possible after receiving all relevant information requested. The HACL may decide to suspend the award of project-based vouchers if the facts presented in the appeal warrant such action. This action will only be taken if the evidence is clear and convincing as to the existence of an impropriety and there are no other means of resolving the matter. If the HACL Executive Director believes that an impropriety exists, then the proposed award of project-based vouchers will be canceled or revised to comply with the decision of the Executive Director.

If the appeal is not granted, the Executive Director will provide a written decision with justification for the denial of the appeal.

B. Requirements for Selection of Project-Base Housing

1. Housing Type

The HACL may attach Project-Based Voucher assistance for units in existing housing, newly constructed housing or rehabilitated housing. A housing unit is considered an existing unit if at the time of notice of the HACL selection, the units substantially comply with HQS.

2. Prohibition of Assistance for Ineligible Units

(a) Ineligible Units

The HACL will not attach or pay Project-Based Voucher assistance for units in the following types of housing:

- (i) Shared housing;
- (ii) Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution;
- (iii) Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care. Units in an assisted living facility are eligible if they provide home health care services such as nursing and therapy for residents of the housing;
- (iv) Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
- (v) Manufactured homes;
- (vi) Cooperative housing; and
- (vii) Transitional housing.

(b) High-rise Elevator Project for Families with Children

The HACL will not attach or pay Project-Based Voucher assistance to a highrise elevator project that may be occupied by families with children unless the HACL determines there is no practical alternative and HUD approves such finding.

(c) Prohibition Against Assistance for Owner-Occupied Unit

The HACL will not attach or pay Project-Based Voucher assistance for a unit occupied by an owner of the housing.

(d) Prohibition Against Selecting a Unit Occupied by an Ineligible Family

The HACL will not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the Project-Based Voucher Program.

3. Prohibition of Assistance for Units in Subsidized Housing

The HACL will not attach or pay Project-based Voucher assistance to units in any of the following types of subsidized housing:

- (a) A public housing dwelling unit;
- (b) A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based);
- (c) A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- (d) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- (e) A unit subsidized with Section 236 rental assistance payments (12 U.S.C. 1715z-1). However, the HACL may attach assistance to a unit subsidized with Section 236 interest reduction payments;
- (f) A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the HACL may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- (g) A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);
- (h) Section 811 project-based supportive housing for persons with disabilities (42 U.S.C. 8013).
- (i) Section 202 supportive housing for the elderly (12 U.S.C. 1701q);
- (j) A Section 101 rent supplement project (12 U.S.C. 1701s);
- (k) A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (e.g., a unit subsidized with tenant-based rental assistance under the HOME program, 42 U.S.C. 12701 et seq.);
- (l) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the HACL in accordance with HUD requirements. For this purpose, "housing subsidy" does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

4. Prohibition of Excess Public Assistance

The HACL will only provide Project-Based Voucher assistance in accordance with HUD subsidy layering regulations and other requirements. The subsidy layering review is intended to prevent excessive public assistance for the housing by combining (layering)

housing assistance payment subsidy under the Project-Based Voucher Program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACL will only enter into an Agreement or HAP contract after HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the Project-Based Voucher assistance is in accordance with HUD subsidy layering requirements.

The HACL will require the owner to certify 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 the assistance disclosed in the subsidy layering review in accordance with HUD requirements.

5. Cap on Number of Project-Based Voucher Units in Each Project

(a) Greater of 25 or 25 Percent Per Project Cap

The HACL will not select a proposal to provide Project-Based Voucher assistance for units in a project or enter into an Agreement or HAP contract to provide Project-Based Voucher assistance for units in a project if the total number of dwelling units in the project that will receive Project-Based Voucher Assistance during the term of the Project-Based Voucher HAP is more than the greater of 25 units or 25 percent of the number of the dwelling units in the project.

(b) Exception to the Greater of 25 Units or 25 Percent Per Building Cap

In the following instances, Project-Based Voucher units are not counted against the greater of 25 or 25 percent per building cap:

- (i) Units exclusively serving elderly families.
- (ii) Excepted units in a multi family building.

Note: "Excepted units" means units that are specifically made available for qualifying families;

"Qualifying families" means: Elderly or disabled families; or families receiving access to supportive services.

Supportive services mean those appropriate services made available to a family trying to achieve economic independence and self-sufficiency or live in the community as independently as possible and may include:

- (1) *Child care - child care of a type that provides sufficient hours of operation and serves an appropriate range of ages;*
- (2) *Transportation - transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;*

- (3) *Education - remedial education; education for completion of secondary or post-secondary schooling;*
 - (4) *Employment - job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;*
 - (5) *Personal welfare - substance/alcohol abuse treatment and counseling;*
 - (6) *Household skills and management - training in homemaking and parenting skills; household management; and money management;*
 - (7) *Other services - any other services and resources, including case management, reasonable accommodations for individuals with disabilities that the HACL determines to be appropriate in assisting families to achieve economic independence and self-sufficiency.*
- (iii) *Projects that are in census tracts with a poverty rate of 20 percent or less. In this case, the cap becomes the greater of 25 units or 40%.*
 - (iv) *Projects previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD.*

6. Site Selection Standards

(a) General Requirements

The HACL will not select a proposal for existing housing, newly constructed, or rehabilitated Project-Based Voucher housing on a site or enter into an Agreement or HAP contract for units on the site until the HACL has determined that:

- (i) Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities as outlined in the HACL Annual and Five-Year Plan and this Administrative Policy. In making this determination, the HACL will utilize the following factors:
 - (1) Whether the census tract in which the proposed Project-Based Voucher development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
 - (2) Whether a Project-Based Voucher development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;

- (3) Whether the census tract in which the proposed Project-Based Voucher development will be located is undergoing significant revitalization;
- (4) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;
- (5) Whether new market rate units are being developed in the same census tract where the proposed Project-Based Voucher development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;
- (6) If the poverty rate in the area where the proposed ProjectBased Voucher development will be located is greater than 20 percent, the HACL should consider whether in the past five years there has been an overall decline in the poverty rate;
- (7) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed Project-Based Voucher development will be located.
- (ii) The site is suitable from the standpoint of facilitating and furthering full compliance with applicable Civil Rights statutes and regulations, including the requirement that the site meet the Section 504 site selection requirements described in 24 FR 8.4(b)(5).
- (v) The site meets the HQS site requirements at 24 CFR 982.401(1).
- (b) Existing and Rehabilitated Housing Site and Neighborhood Standards

The HACL will determine if a site for existing or rehabilitated housing meets the following site and neighborhood standards. The site must:

- (i) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with law, may be considered adequate utilities.)
- (ii) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- (iii) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted standard housing of similar market rents.

- (iv) Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.

(c) New Construction Site and Neighborhood Standards

A site for newly constructed housing must meet the following site and neighborhood standards:

- (i) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.
- (ii) The site must not be located in an area of minority concentration, except as permitted under paragraph (iii) below, and 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.
- (iii) A project may be located in an area of minority concentration only if:
 - (1) Sufficient comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside area of minority concentration; or
 - (2) The project is necessary to meet overriding housing needs that cannot be met in that housing market area.

Note: "Sufficient" does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year so that, over a period of several years, it will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance will be determined in light of local conditions affecting the range of housing choices available for low income minority families and in relation to the racial mix of the locality's population.

Units will be considered "comparable opportunities" if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent, serve the same income group, are located in the same housing market, and are in standard condition.

Application of the "comparable opportunities" standard involves assessing the overall impact of HUD-assisted housing on the

availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

- (A) *A significant number of assisted housing units are available outside areas of minority concentration.*
- (B) *There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.*
- (C) *There are racially integrated neighborhoods in the locality.*
- (D) *Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration*
- (E) *Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.*
- (F) *A significant proportion of minority households have been successful in finding units in non-minority areas under the tenant-based assistance programs.*
- (G) *Comparable housing opportunities have been made available outside areas of minority concentration through other programs.*

Application of the “overriding housing needs” criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”). An “overriding housing need,” however, may not serve as the basis for determining that a site is acceptable, if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

- (iv) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- (v) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is a concerted program actively in progress to remedy the undesirable conditions.
- (vi) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted standard housing of similar market rents.
- (vii) Except for new construction, housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers must not be excessive.

7. Environmental Review

The HACL will not enter into an Agreement or HAP contract with an owner nor will the HACL, the owner or its contractors acquire, dispose of, demolish, or construct real property or commit or expend program or local funds for Project-Based Voucher activities until one of the following occurs:

- (a) The responsible entity (a unit of general local government, a county or a state) has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and request for release of funds;
- (b) The responsible entity has determined that the project to be assisted is exempt under 24 CFR 58.34 or is categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or
- (c) HUD has performed an environmental review under 24 CFR part 50 and has notified the HACL in writing of environmental approval of the site.

The HACL will require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

8. HACL Owned Units

- (a) Selection of HACL Owned Units

If the HACL selects its own proposal, the HUD field office or a HUD approved independent entity will review the selection process to determine that the HACL units were appropriately selected based on the selection procedures as outlined in this Section 8 Administrative Plan.

(b) Inspection and Determination of Reasonable Rent

The HACL will have an independent entity approved by HUD perform the following program services:

- (i) Determination of rent to owner as outlined in ***RENT TO OWNER***(A) and (B). The independent entity approved by HUD must establish the initial contract rents based on an appraisal by a licensed state-certified appraiser; and
- (ii) Inspections as outlined in ***HOUSING QUALITY STANDARDS***(F) section of these policies.

(c) Nature of Independent Entity

The independent entity that performs these program services may be the unit of general local government for the HACL's jurisdiction (unless the HACL is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

(d) Payment to Independent Entity and Appraiser

The HACL will compensate the independent entity and appraiser from the HACL's ongoing administrative fee income (including the amounts credited to the administrative fee reserve). The HACL will not use other program receipts to compensate the independent entity and appraiser for their services.

The HACL, independent entity, and appraiser will not charge the family any fee for the appraisal or the services provided by the independent entity.

HOUSING QUALITY STANDARDS

The HACL will follow the policies as outlined in Section 12.0 Inspection Policies and Housing Quality Standards of this Section 8 Administrative for the Project-Based Voucher Program except when the physical condition standards at 24 CFR 5.703 do not apply to the Project-Based Voucher Program and the lead-based paint requirements at 24 CFR 982.401(j) do not apply to the Project-Based Voucher Program.

A. Inspecting Units

1. Pre-Selection Inspection

(a) Inspection of Site

The HACL will examine the proposed site to confirm its appropriateness before the proposal selection date.

2. Inspection of Existing Units

The HACL will inspect all the units before the proposal selection date and will determine whether the units substantially comply with the HQS. To qualify as existing housing, units

must substantially comply with the HQS on the proposal selection date. The HACL will not execute the HAP contract until the units fully comply with the HQS.

B. Pre-HAP Contract Inspections

The HACL will inspect each contract unit before execution of the HAP contract. The HACL will not enter into a HAP contract covering a unit until the unit fully complies with the HQS.

C. Turnover Inspections

The HACL will inspect the unit before providing assistance to a new family in a contract unit. The HACL will not provide assistance on behalf of the family until the unit fully complies with the HQS.

D. Annual Inspections

1. At least annually during the term of the HAP contract, the HACL will inspect a random sample, consisting of at least 20 percent of the contract units in each project, to determine if the contract units and the premises are maintained in accordance with the HQS.

Note: Turnover inspections pursuant to paragraph C. of this section will not count toward meeting this annual inspection requirement.

2. If more than 20 percent of the annual sample of inspected contract units in a building fail the initial inspection, the HACL will re-inspect 100 percent of the contract units in the building.

E. Other Inspections

1. The HACL will inspect contract units whenever needed to determine that the contract units comply with the HQS, that the owner is complying with the HQS, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACL will take into account complaints and any other information coming to its attention in scheduling inspections.
2. The HACL will conduct follow-up inspections needed to determine if the owner (or the family if responsible) has corrected an HQS violation. Additionally, the HACL will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of the HQS.
3. The HACL will include a representative sample of both tenant-based and project-based units in conducting its supervisory quality control HQS inspections.

F. Inspecting HACL Owned Units

1. For HACL owned units, the inspections required under this section will be performed by an independent entity approved by HUD. The independent entity that performs these inspections may be the unit of general local government for the HACL jurisdiction (unless

the HACL is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

2. The independent entity shall provide a copy of each inspection report to the HACL and to the HUD field office where the project is located.
3. The HACL will take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the owner (HACL).

REQUIREMENTS FOR REHABILITATED AND NEWLY CONSTRUCTED UNITS

This section only applies to newly constructed or rehabilitated housing and does not apply to existing housing. Newly constructed or rehabilitated housing cannot be selected as existing housing at a later date.

A. Purpose and Content of the Agreement to Enter into HAP Contract

1. Requirement

The HACL will enter into an Agreement with the owner. The Agreement will be in the form required by HUD.

2. Purpose of the Agreement

In the Agreement, the owner agrees to develop the contract units to comply with the HQS and the HACL agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the HACL will enter into a HAP contract with the owner for the contract units.

3. Description of Housing

(a) At a minimum, the Agreement will describe the following features of the housing to be developed (newly constructed or rehabilitated) and assisted under the Project-Based Voucher Program:

- (i) Site;
- (ii) Location of contract units on site;
- (iii) Number of contract units by area (size) and number of bedrooms and bathrooms;
- (iv) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner;
- (v) Utilities available to the contract units (including broadband), including a specification of utility services to be paid by owner (without charges in addition to rent), and utility services to be paid by the tenant;

- (vi) Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.22 and 8.23 apply to units under the Agreement. If these requirements are applicable, any required work item resulting from these requirements will be included in the description of work to be performed under the Agreement;
- (vii) Estimated initial rents to owner for the contract units;
- (viii) Description of the work to be performed under the Agreement. If the Agreement is for rehabilitation of units, the work description will include the rehabilitation work write up and, where determined necessary by the HACL, specifications and plans. If the Agreement is for new construction, the work description will include the working drawings and specifications.

(b) At a minimum, the housing must comply with the HQS.

The Housing Authority may elect to establish additional requirements for quality, architecture, or design of Project-Based Voucher housing over and above the HQS, and any such additional requirement must be specified in the Agreement.

B. Execution of the Agreement

1. Prohibition of Excess Subsidy

The HACL will not enter the Agreement with the owner until the subsidy layering review is completed.

2. Environmental Approval

The HACL will not enter the Agreement with the owner until the environmental review is completed and the HACL has received the environmental approval.

3. Prompt Execution of Agreement

The Agreement will be executed promptly after the HACL notice of proposal selection to the selected owner.

C. Conduct of Development Work

1. Development Requirements

The owner must carry out development work in accordance with the Agreement and the requirements of this section.

2. Labor Standards

- (a) In the case of an Agreement 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 development of the housing.
- (b) The HUD prescribed form of Agreement shall include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.
- (c) The owner and the owner's contractors and subcontractors must 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 HACL will monitor compliance with labor standards.

3. Equal Opportunity

- (a) 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.
- (b) The owner must comply with federal equal employment opportunity requirements of Executive Orders 11246 as amended, 11625, 12432 and 12138.

4. Eligibility to Participate in Federal Programs and Activities

The Agreement and HAP contract will include a certification by the owner that the owner and other project principals (including officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

5. Disclosure of Conflict of Interest

The owner must disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

D. Completion of Housing

1. Completion Deadline

The owner must develop and complete the housing in accordance with the Agreement. The Agreement will specify the deadlines for completion of the housing and for submission by the owner of the required evidence of completion.

2. Required Evidence of Completion

- (a) Minimum Submission

At a minimum, the owner must submit the following evidence of completion to the HACL in the form and manner required by the HACL:

- (i) Owner certification that the work has been completed in accordance with the HQS and all requirements of the Agreement; and
 - (ii) Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.
- (b) Additional Documentation

At the discretion of the HACL, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion. For example, such documentation may include:

- (i) A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements); and
- (ii) An architect's certification that the housing complies with:
 - (A) HUD housing quality standards;
 - (B) State, local, or other building codes;
 - (C) Zoning;
 - (D) The rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or
 - (E) Any additional design or quality requirements pursuant to the Agreement.

E. HACL Acceptance of Completed Units

1. HACL Determination of Completion

When the HACL has received owner notice the housing is completed:

- (a) The HACL will inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with the HQS and any additional requirement(s) imposed by the HACL under the Agreement.
- (b) The HACL will determine if the owner has submitted all required evidence of completion.
- (c) If the work has not been completed in accordance with the Agreement, the HACL will not enter into the HAP contract.

2. Execution of HAP Contract

If the HACL determines that the housing has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACL will submit the HAP contract for execution by the owner and will then execute the HAP contract.

HOUSING ASSISTANCE PAYMENT CONTRACT

This section applies to all Project-Based Voucher assistance including assistance for existing, newly constructed, or rehabilitated housing.

A. Purpose of the HAP Contract

1. Requirement

The HACL will enter into a HAP contract with the owner. The HAP contract must be in the form required by HUD.

2. Purpose of HAP Contract

(a) The purpose of the HAP contract is to provide housing assistance payments for eligible families.

(b) The HACL makes housing assistance payments to the owner in accordance with the HAP contract. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term.

B. HAP Contract Information

The HAP contract must specify:

1. The total number of contract units by number of bedrooms;
2. Information needed to identify the site and the building or buildings where the contract units are located. The information must include 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;
3. Information needed to identify the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
4. Services, maintenance, and equipment to be supplied by the owner without charges in addition to the rent to owner;
5. Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;

6. 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;
7. The HAP contract term;
8. The number of units in any project that will exceed the PBV cap, which will be set-aside for occupancy by qualifying families (elderly or disabled families and families receiving supportive services); and
9. The initial rent to owner (for the first 12 months of the HAP contract term).

C. When HAP Contract is Executed

1. HACL Inspection of Housing

- (a) Before execution of the HAP contract, the HACL will inspect each contract unit in accordance with Section ***HOUSING QUALITY STANDARDS B***.
- (b) The HACL will not enter into a HAP contract for any contract unit until the HACL has determined that the unit complies with the HQS.

2. Existing Housing

The HACL will promptly execute the HAP contract after the HACL selection of the owner proposal and HACL inspection of the housing.

3. Newly Constructed or Rehabilitated Housing

The HACL will execute the HAP contract after the HACL has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the owner has furnished all required evidence of completion.

When executing the HAP contract, the owner must certify that the units have been completed in accordance with the Agreement.

D. Term of the HAP Contract

1. Initial Term and Any Extensions

The HACL may enter into a HAP contract with an owner for an initial term of up to twenty years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than twenty years.

Within one year before expiration, the HACL may agree to extend the term of the HAP contract for an additional term of up to twenty additional years if the HACL determines an extension is appropriate to continue providing affordable housing for low-income families. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

The term and potential extensions the HACL is willing to enter into will be discussed in the project selection process.

2. Termination by the HACL – Insufficient Funding

The HAP contract will provide that the term of the HACL’s contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by the HACL in accordance with HUD instructions.

Note: “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.

The HACL will not fail to make the HAP payment until after it has made all possible allowable cost saving efforts in the tenant-based program as set forth in Chapter 14 of the HACL’s Administrative Plan for the Section 8 Housing Choice Voucher Program and there is still insufficient funding. 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 HACL may terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the HACL will be implemented in accordance with HUD instructions.

3. Termination by Owner – Reduction Below Initial Rent

The owner may terminate the HAP contract, upon notice to the HACL, if the amount of rent to the owner is reduced below the initial approved rent. In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

Upon termination or expiration of a HAP 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 HACL will provide the family with a voucher and that family will also be given the option by the HACL and owner to remain in their unit with HCV tenant-based assistance if the unit complies with inspection requirements and rent reasonableness requirements. The family must pay the total tenant payment and any additional amount if the unit 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 (for example, the rent is reasonable, unit meets HQS, etc.). The owner may not terminate the tenancy of a family that exercises its right to remain except for a serious or repeated lease violation 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 HACL 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.

The statutory owner notice requirements related to the contract termination or expiration continue to apply to the PBV program. If the owner fails to provide timely notice of termination, 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 the rent, and with no eviction as a result of an owner's inability to collect an increased tenant portion of the rent. 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.

E. HAP Contract Amendments (to add or substitute contract units)

1. Amendment to Substitute Contract Units

At the discretion of the HACL, and subject to all Project-Based Voucher 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. Prior to such substitution, the HACL will inspect the proposed substitute unit and will determine the reasonable rent for such unit and the fact that it passes HQS.

2. Amendment to Add Contract Units

At the discretion of the HACL, and provided that the total number of units in a project that will receive Project-Based Voucher assistance or other project-based assistance will not exceed the greater of 25 or 25 percent of the number of dwelling units (assisted or unassisted) in the project or the 20 percent of authorized budget authority of the HACL, a HAP contract may be amended to add additional Project-Based Voucher contract units in the same project. An Amendment to the HAP contract is subject to all Project-Based Voucher requirements (e.g., rents are reasonable), except that a new Project-Based Voucher request for proposals(competition) is not required. The anniversary and expiration dates of the HAP contract for the additional units must be the same as for the anniversary and expiration dates of the HAP contract term for the Project-Based Voucher units originally placed under HAP contract. This shall only be done after informing the HUD Field Office with the information it requires and the rationale used to expand assistance to the specific project.

3. Staged Completion of Contract Units

Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

4. Condition of Contract Units

(a) Owner Maintenance and Operation

The owner must maintain and operate the contract units and premises in accordance with the 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 HACL and in the lease with each assisted family.

At the discretion of the HACL, the HAP contract may also require continuing owner compliance during the HAP term with additional housing quality requirements specified by the HACL (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements will be designed to assure continued compliance with any design, architecture, or quality requirement specified in the Agreement.

5. Remedies for HQS Violation

The HACL will vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The HACL will not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with the HQS.

If the HACL determines that a contract unit is not in accordance with the housing quality standards (or other HAP contract requirement), the HACL may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

6. Maintenance and Replacement – Owner’s Standard Practice

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the project concerned as established by the owner.

7. Owner Responsibility

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP contract. 24 CFR part 982.452 applies as follows:

- (a) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.
- (b) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
- (c) Complying with equal opportunity requirements.
- (d) Preparing and furnishing to the HACL information required under the HAP contract.
- (e) Collecting from the family:

- (i) Any security deposit.
- (ii) The tenant contribution (the part of rent owner not covered by the housing payment).
- (iii) Any charges for unit damage by the family.
- (iv) Enforcing tenant obligations under the lease.
- (v) Paying for utilities and services (unless paid by the family under the lease).
- (vi) Provisions on modifications to a dwelling unit occupied or to be occupied by a disabled person see the following note:

Note: Reasonable Modification of Existing Premises

(A) *It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected. The landlord may not increase for handicapped persons any customarily required security deposit.*

However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(B) *However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.*

A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work

will be done in a workmanlike manner and that any required building permits will be obtained.

8. Owner Certification

By execution of the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- (a) All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.
- (b) The owner is providing all the services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with assisted families.
- (c) Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the HACL, and the lease is in accordance with the HAP contract and HUD requirements.
- (c) To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.
- (d) 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.
- (e) The amount of the housing assistance payment is the correct amount due under the HAP contract.
- (f) The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.
- (g) Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payment or other consideration (from the family, the HACL, HUD, or any other public or private source) for rental of the contract unit.
- (h) The participating family does not own or have any interest in the contract unit.

OPERATION OF PROJECT-BASED PROPERTIES

A. Project-Based Waiting List

The HACL will use separate waiting lists for Project-Based Voucher units in individual projects for admission to Project-Based Voucher units. The HACL will offer to place applicants who are listed on the HACL's waiting list for tenant-based assistance on the waiting lists for Project-Based Voucher Assistance. All applicants will be maintained by bedroom size, then preference and date and time of application. If an applicant rejects an offer of assistance of the Project-Based Assistance Program, the rejection will not alter the applicant's position on the Section 8 Voucher Tenant Based Assistance Program.

The waiting list for the Project-Based Section 8 Assistance Program will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.
2. All applications will be maintained by bedroom size, preference and then in order of date and time of application.
3. Substantive contacts between the HACL and the applicant will be documented in the applicant file.

B. Admission Preferences

The preferences utilized shall be the same as is used for the Tenant Based Housing Choice Voucher Program. **[Separate preferences can be established for project-based properties collectively or separately.]** Admission preferences will be consistent with all applicable Federal nondiscrimination and civil rights statutes and requirements.

C. Selection from the Waiting List

If an applicant is removed from the Project-Based Assistance Program waiting list because of the rejection of an offer of a unit, the rejection will not alter the applicants' position on the Section 8 Tenant Based Assistance Program waiting list. Likewise, if the owner rejects the available applicant, the rejection will not be counted against the one unit offer and the family will maintain their position on the Project-Based Section 8 Assistance Program. The owner must promptly notify the HACL in writing if an applicant is rejected and the grounds for the rejection.

Under this plan, the first qualified applicant in sequence on the Section 8 Project-Based Assistance Program waiting list will be made an offer of project-based assistance based on the unit size available. If the available unit being offered is a unit with special accessibility features for persons with disabilities, the HACL will skip over families not requiring the accessible unit to reach a family who does require such accommodation.

Non-mobility impaired families will be offered these units if no family on the waiting list requires these features. The applicant family will only have one chance to accept a unit offer. If the applicant family rejects the offer, his or her name will be removed from the waiting list and he or she will have to re-apply. The applicant family will be notified in writing of the reason they are being removed from the waiting list and their right to an informal review as described in Section 4.10.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

The HACL will maintain a record of units offered, including location, date and circumstances of each offer and each acceptance or rejection, including the reason for the rejection.

All Section 8 Tenant Based Assistance waiting list families who want project-based units will be permitted to place their names on the Section 8 Project-Based Assistance Program waiting list.

Notwithstanding the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year are families who are extremely low-income (unless a different target is agreed to by HUD), the HACL retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

D. Project-Based Briefing

When the HACL selects a family from the waiting list, the family will be invited to attend a briefing explaining how the project-based program works. In order to be eligible for a vacant unit, all adult family members are required to attend the briefing. If they cannot attend the originally scheduled briefing, they may attend a later session. If the family fails to attend two briefings without good cause, they will be denied admission.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the HACL will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or an undue financial or administrative burden. In determining the most suitable auxiliary aid, the HACL will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

1. A description of how the program works;
2. Family and owner responsibilities;
3. The fact that the subsidy is tied to the unit. After the initial 12-month period, the family has the right to move with continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance; and
4. A description of the HACL's policy on providing information to owners.

E. Project-Based Briefing Packet

During the briefing, the Housing Authority will give the family a packet covering at least the following subjects:

1. How the Housing Authority determines the housing assistance payment and total tenant payment for the family (including a copy of the utility allowances);
2. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses;
3. The HUD-required lead-based paint brochure;

4. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form;
5. The family and owner responsibilities under the lease and HAP contract;
6. The grounds upon which the Housing Authority may terminate assistance because of the family's action or inaction; and
7. HACL informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing.

F. Leasing of Contract Units

1. Owner Selection of Tenants

During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by the HACL from the HACL waiting list.

The owner is responsible for adopting 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 perform the lease obligations.

An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

2. Size of Unit

The contract unit leased to each family must be appropriate for the size of the family under the HACL's subsidy standards.

G. Vacancies

1. Filling Vacant Units

The owner must promptly notify the HACL of any vacancy (or expected vacancy) in a contract unit. After receiving the owner notice, the HACL will make every reasonable effort to promptly refer a sufficient number of families to the owner to fill such vacancies.

The owner must lease vacant contract units only to eligible families on the HACL waiting list referred by the HACL.

It is expected that the HACL and the owner will make reasonable good faith efforts to minimize the likelihood and length of any vacancy.

2. Reducing Number of Contract Units

If any contract units have been vacant for a period of 120 days or more since the owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the HACL to fill such vacancies), the HACL may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

H. Tenant Screening

The HACL will not screen family behavior or suitability for tenancy, other than past criminal behavior for program eligibility. The HACL will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

In deciding whether to exercise their discretion to admit an individual or household that has engaged in criminal activity, the Housing Authority of the County of Dauphin will consider all of the circumstances relevant to the particular admission, including but not limited to the seriousness of the offending action.

The information received as a result of the criminal background check shall be used solely for screening purposes. The information derived from the criminal background check shall be shared only with employees of the HACL who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the HACL's action has expired without a challenge or final disposition of any litigation has occurred.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HACL approval of the tenancy, the HACL will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as:

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.

The HACL may give the owner:

The family's current and prior address as shown in the HACL's records; and

The name and address (if known by the HACL) of the landlord at the family's current and prior address.

The HACL will offer the owner other information in the HACL's possession concerning the family if requested, including:

Information about the family's tenancy history; or

Information about drug-trafficking by family members

The same types of information may be supplied to all owners and the HACL will give the family a description of the HACL's policy on providing information to owners.

The HACL will advise families how to file a complaint if they have been discriminated against by an owner. The HACL will advise the family to make a Fair Housing complaint if such a complaint appears justified. The HACL may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

I. Lease

1. Tenant's Legal Capacity

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.

2. Form of Lease

The tenant and the owner must enter a written lease for the unit. Both the owner and the tenant must execute the lease.

If the owner uses a standard lease form for rental to unassisted tenants in the locality or for the premises, the lease must be in an acceptable form. 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 HACL model lease.

In all cases, the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

The HACL will review the owner's lease form to determine if the lease complies with state and local law. The HACL will decline to approve the tenancy if the HACL determines that the lease does not comply with state or local law.

3. Required Information

The lease must specify all of the following:

- (a) The names of the owner and the tenant;
- (b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- (c) The term of the lease (initial term and any provision for renewal);
- (d) The amount of tenant rent to owner. The tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements;
- (e) A specification of what services, maintenance, equipment, and utilities are to be provided by the owner; and
- (f) The amount of any charges for food, furniture, or supportive services.

4. Initial Term of the Lease

The initial lease term must be for at least one year.

5. Tenancy Addendum

The tenancy addendum in the lease shall state:

- (a) The program tenancy requirements; and
- (b) The composition of the household as approved by the HACL (names of family members and any HACL live-in aide).

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum shall prevail over other provisions of the lease.

6. Changes in Lease

If the tenant and the owner agree to any change in the lease, such change must be in writing and the owner must immediately give the HACL a copy of all such changes.

The owner must notify the HACL in advance of any proposed change in lease requirements governing the allocation of tenant and owner responsibilities for utilities. Such changes may be made only if approved by the HACL and in accordance with the terms of the lease relating to its amendment. The HACL will re-determine reasonable rent in accordance with Section **RENT TO OWNER** (C), based on any change in allocation of responsibility for utilities between the owner and the tenant, and the redetermined reasonable rent shall be used in calculation of rent to owner from the effective date of the change.

7. Lease Provisions Governing Tenant Absence From the Unit

The owner's lease may specify a maximum period of tenant absence from the unit that may be shorter than the maximum period permitted by the HACL in Section 2.3(H) of this Administrative Plan.

J. Security Deposit

The owner may collect a security deposit from the tenant. The HACL prohibits security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the 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 which the tenant owes 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 is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. The HACL has no liability or responsibility for payment of any amount owed by the family to the owner.

K. Owner Termination of Tenancy and Eviction

1. In general, Section 17.0, Termination of the Lease and Contract, of this Administrative Plan applies with the exception that 17(a)(viii) (3) & (4) do not apply to the Project-based Voucher Program. In the Project-based Voucher Program "good cause" does not include a business or economic reason or desire to use the unit for an individual, family, or nonresidential rental purpose. Eviction for drug and alcohol abuse applies to the Project based Voucher Program.

2. Upon lease expiration, an owner may:

(a) Renew the lease;

(b) Refuse to renew the lease for good cause;

(c) Refuse to renew the lease without good cause, which case the HACL will provide the family with a tenant based voucher and the unit will be removed from the Project-based Voucher HAP contract.

L. Overcrowded, Under-Occupied, and Accessible Units

1. Family Occupancy of Wrong-size or Accessible Unit

The HACL's subsidy standards determine the appropriate unit size for the family size and composition. If the HACL determines that a family is occupying a:

- (a) Wrong-size unit, or
- (b) Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the HACL must promptly notify the family and the owner of this determination, and of the HACL's offer of continued assistance in another unit pursuant to paragraph (2) of this section.

2. HACL Offer of Continued Assistance

If a family is occupying a wrong size unit, or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the HACL will offer the family the opportunity to receive continued housing assistance in another unit.

The HACL will offer the following housing options as continued assistance.

- (a) Project-based voucher assistance in an appropriate-size unit (in the same project);
- (b) Other project-based housing assistance (e.g., by occupancy of a public housing unit);
- (c) Tenant-based rental assistance under the voucher program; or
- (d) Other comparable public or private tenant-based assistance (e.g., under the HOME program).

3. HACL Termination of Housing Assistance Payments

If the HACL offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the HACL will terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACL).

If the HACL offers the family the opportunity for another form of continued housing assistance in accordance with (2) above, and the family does not accept the offer, does not move out of the project-based voucher unit within a reasonable time as determined by the HACL, or both, the HACL will terminate the housing assistance payments for the wrong-sized or accessible unit, at the expiration of a reasonable period as determined by the HACL.

- M. When Occupancy May Exceed the greater of 25 or 25 Percent Cap on the Number of Project Based Voucher Units in Each Project

1. Except as provided in Section ***SELECTION OF PROPERTIES TO PROJECT-BASE (B)(5)***, the HACL will not pay housing assistance under the HAP contract for contract units in excess of the 25 percent cap.
2. If referring families to the owner for admission to excepted units, the HACL will give preference to elderly or disabled families, or to families receiving supportive services.
4. A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the PBV project cap exception will be required to vacate the unit within a reasonable period of time established by the HACL, and the HACL will cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit will be removed from the HAP contract unless the project is partially assisted and it is possible for the HAP contract to be amended to substitute a different unit in the project in accordance with Section ***HOUSING ASSISTANCE PAYMENT CONTRACT (E)*** or the owner terminates the lease and evicts the family.

N. Family Right to Move

A family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of the intent to vacate, with a copy to the HACL in accordance with the lease.

If the family has elected to terminate the lease after the first year in compliance with the lease, the HACL will offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Note: Before providing notice to terminate the lease, the family must contact the HACL to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family’s lease of a project-based voucher unit, the HACL will give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

- O. The HACL and all PBV property owners will operate the property in a manner to affirmatively further fair housing. No admission preference shall intentionally discriminate against any member of a protected class. Both the HACL and all PBV property owners shall operate their properties in compliance with all Federal nondiscrimination requirements.

RENT TO OWNER

- A. Determining the Rent to Owner
1. Initial and Redetermined Rents

- (a) The amount of the initial rent to owner is established at the beginning of the HAP contract term. For rehabilitated or newly constructed housing, the Agreement states the estimated amount of the initial rent to owner, but the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.
- (b) The rent to owner is redetermined at the owner's request for a rent increase in accordance with this Section **RENT TO OWNER (A)** and Section **RENT TO OWNER (B)**. The rent to owner is also redetermined at such time when there is a five percent or greater decrease in the published FMR.

2. Amount of Rent to Owner

Except for certain tax credit units as provided in Section **RENT TO OWNER (C)**, the rent to owner must not exceed the lowest of:

- (a) An amount determined by the HACL, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by HUD) for the unit bedroom size minus any utility allowance;
- (b) The reasonable rent; or
- (c) The rent requested by the owner.

3. Rent to Owner for Certain Tax Credit Units

- (a) This section applies if:
 - (i) A contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986 (see 26 U.S.C. 42);
 - (ii) The contract unit is not located in a qualified census tract;

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.
 - (iii) In the same project, there are comparable tax credit units of the same unit bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
 - (iv) The tax credit rent exceeds the applicable fair market rental (or any exception payment standard) as determined in accordance with Section **RENT TO OWNER (B)**.
- (b) The rent to owner must not exceed the lowest of:

- (i) The tax credit rent minus any utility allowance;
 - (ii) The reasonable rent; or
 - (iii) The rent requested by the owner.
- (c) The “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., additional assistance such as tenant-based voucher assistance).

4. Rent to Owner for Other Tax Credit Units

Except in the case of a tax credit unit described in the Section immediately above, the rent to owner for all other tax credit units is determined pursuant to Section 2 above.

5. Reasonable Rent

The HACL will determine reasonable rent in accordance with Section **RENT TO OWNER (C)**. The rent to owner for each contract unit may at no time exceed the reasonable rent.

5. Use of FMRs and Utility Allowance Schedule in Determining the Amount of Rent to Owner

(a) Amounts used:

- (i) Determination of Initial Rent (at the beginning of the HAP contract term)

When determining the initial rent to owner, the HACL will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. At its discretion, the HACL may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

- (ii) Redetermination of Rent to Owner

When redetermining the rent to owner, the HACL will use the most recently published FMR and the HACL utility allowance schedule in effect at the time of redetermination. At its discretion, the HACL may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

(b) Exception Payment Standard and HACL Utility Allowance Schedule

- (i) Any HUD approved exception standard amount applies to both the tenant-based and project-based voucher programs. HUD will not approve a different exception payment standard amount for use in the project-based voucher program.

- (ii) The HACL may not establish or apply different utility allowance amounts for the project-based voucher program. The same HACL utility allowance schedule applies to both the tenant-based and projectbased voucher programs.

7. HACL Owned Units

For HACL owned units, the initial rent to owner and the annual re-determination of rent at the annual anniversary of the HAP contract are determined by the independent entity approved by HUD in accordance with Section **RENT TO OWNER** (C)(6). The HACL must use the rent to owner established by the independent entity.

B. Re-determination of Rent to Owner

1. The HACL will re-determine the rent to owner:

- (a) Upon the owner's request; or
- (b) When there is a five percent or greater decrease in the published FMR.

2. Rent Increase

- (a) The HACL will not make any rent increase other than an increase in the rent to owner as outlined in **RENT TO OWNER**(A) above.
- (b) The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the HACL. The HACL must receive the written notice 60 (sixty) days before the annual anniversary date. The request must be submitted in the form and manner required by the HACL.
- (c) The HACL will not approve and the owner will not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with the HQS. The HACL will not grant any retroactive increase of rent for any period of noncompliance.

3. Rent Decrease

If there is a decrease in the rent to owner, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

4. Notice of Rent Determination

The HACL will give written notice of any redetermined rent. The HACL notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

5. Contract Year and Annual Anniversary of the HAP Contract

- (a) The 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.
- (b) The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.
- (c) If contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

C. Reasonable Rent

1. Comparability Requirement

At all times during the term of the HAP contract, the rent to owner may not exceed the reasonable rent as determined by the HACL.

2. Redetermination

The HACL will redetermine the reasonable rent under the following circumstances:

- (a) Whenever there is a five percent or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;
- (b) Whenever the HACL approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- (c) Whenever the HAP contract is amended to substitute a different contract unit in the same project; and
- (d) Whenever there is any other change that may substantially affect the reasonable rent.

3. How to Determine Reasonable Rent

The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units. In determining the reasonable rent, the HACL will consider factors that affect market rent, such as:

- (a) The location, quality, size, unit type, and age of the contract unit; and

- (b) Amenities, housing services, maintenance, and utilities to be provided by the owner.

4. Comparability Analysis

- (a) For each unit, the HACL comparability analysis will use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.
- (b) The HACL will retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the unassisted units.
- (c) The comparability analysis may be performed by the HACL staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any HACL staff or contractor engaged in determining the housing assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

5. Owner Certification of Comparability

By accepting each monthly housing assistance payment from the HACL, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the HACL information requested by the HACL on rents charged by the owner for other units in the premises or elsewhere.

6. Determining Reasonable Rent for HACL Units

For HACL units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with Section **SELECTION OF PROPERTIES TO PROJECT-BASE(B)(8)**, rather than by HACL staff. Reasonable rent must be determined in accordance with this Section.

The independent entity must furnish a copy of the independent entity determination of reasonable rent for HACL owned units to the HACL and to the HUD field office where the project is located.

7. Other Subsidy; Effect on Rent to Owner

In addition to the rent limits established in accordance with **RENT TO OWNER(A)&(B)**, the following restrictions apply to certain units:

- (a) HOME – for units assisted under the HOME program, rents may not exceed rent limits as required by the HOME program.
- (b) Subsidized Projects

This paragraph applies to any contract units in any of the following types of federally subsidized project:

- (i) An insured or non-insured Section 236 project;
- (ii) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- (iii) A Section 221(d)(3) below market interest rate (BMIR) project;
- (iv) A Section 515 project of the Rural Housing Service;
- (v) A project receiving low-income housing tax credits;
- (vi) Any other type of federally subsidized project specified by HUD.

The rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program.

(a) Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

(b) Other Subsidy: HACL Discretion to Reduce Rent

The HACL, at its discretion, may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

(c) Prohibition of Other Subsidy

The HACL will not attach or pay Project-based Voucher assistance to units in any of the following types of subsidized housing:

- (i) A public housing dwelling unit;
- (ii) A unit subsidized with any other form of Section 8 assistance (tenantbased or project-based);
- (iii) A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- (iv) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- (v) A unit subsidized with Section 236 rental assistance payments (12 U.S.C. 1715z-1). However, the HACL may attach assistance to a unit subsidized with Section 236 interest reduction payments;

- (vi) A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the HACL may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- (vii) A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);
- (viii) Section 811 project based supportive housing for persons with disabilities (42 U.S.C. 8013);
- (ix) Section 202 supportive housing for the elderly (12 U.S.C. 1701q);
- (x) A Section 101 rent supplement project (12 U.S.C. 1701s);
- (xi) A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (e.g., a unit subsidized with tenantbased rental assistance under the HOME program, 42 U.S.C. 12701 et seq.);
- (xii) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the HACL in accordance with HUD requirements. For this purpose, “housing subsidy” does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

8. Rent to Owner: Effect of Rent Control and Other Rent Limits

In addition to all the above limitations on the rent paid to the owner, if a state or local rent control requirement exists, it will apply to the property.

PAYMENT TO OWNER

A. HACL Payment to Owner for Occupied Unit

1. When Payments Are Made

The HACL will make housing assistance payments to the owner in accordance with the terms of the HAP contract.

Except for discretionary vacancy payments in accordance with ***PAYMENT TO OWNER(B)*** below, the HACL will 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).

2. Monthly Payment

Monthly, the HACL will make a housing assistance payment to the owner for each contract unit that is in compliance with HQS and is leased to and occupied by an eligible family in accordance with the HAP contract.

3. Calculating Amount of Payment

The monthly housing assistance payment by the HACL to the owner for a contract unit leased to a family is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

4. Prompt Payment

The HACL will make the housing assistance payment to the owner under the HAP contract on or about the first day of the month for which payment is due, unless the owner and the HACL agree on a later date. If such an agreement has been made, it must be in writing.

5. Owner Compliance with Contract

In order to receive housing assistance payments in accordance with the HAP contract, the owner must be in compliance with all the provisions of the HAP contract. Unless the owner complies with all the provision of the HAP contract, the owner does not have a right to receive housing assistance payments.

B. Vacancy Payment

1. Payment for Move-Out Month

If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out (“move-out month”). If the HACL determines that the vacancy is the owner’s fault, the owner may not keep the payment.

C. Tenant Rent; Payment to Owner

1. HACL Determination

The HACL will determine the tenant rent and effective dates of changes in rent in accordance with this Section 8 Administrative Plan. The tenant rent is the portion of the rent to owner paid by the family.

2. Tenant Payment to Owner

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The tenant rent is determined by the HACL and is the maximum amount the owner can charge the family for rent of a contract unit.

The tenant rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the owner without additional charge to the tenant, in accordance with the HAP contract and lease.

The owner cannot demand or accept any rent payment from the tenant in excess of the tenant rent. The owner is required to immediately return any excess payment to the tenant.

3. Limit of HACL Responsibility

The HACL is responsible only for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract. The HACL is not responsible for paying the tenant rent, or for paying any other claim by the owner.

4. Utility Reimbursement

If the amount of the utility allowance exceeds the total tenant payment, the HACL will pay the amount of such excess as a reimbursement for tenant-paid utilities and the tenant rent to the owner shall be zero.

D. Other Fees and Charges

1. Meals and Supportive Services

In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges will not be included in the rent to owner, nor will the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

For any other type of project-based assistance (other than assisted living) the owner may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

2. Other Charges by Owner

The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

ACC	Annual Contributions Contract
BR	Bedroom
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
ELI	Extremely low income
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act - Social Security taxes
FmHA	Farmers Home Administration
FMR	Fair Market Rent
FY	Fiscal Year
FYE	Fiscal Year End
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by Total Tenant Payment
GR	Gross Rent
HAP	Housing Assistance Payment
HAP Plan	Housing Assistance Plan
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or its designee.
HURRA	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
IG	Inspector General
IGR	Independent Group Residence

IPA	Independent Public Accountant
IRA	Individual Retirement Account
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
PHA	Public Housing Agency
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RFAT	Request for Approval of Tenancy
RFP	Request for Proposals
RRP	Rental Rehabilitation Program
SRO	Single Room Occupancy
SSMA	Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 Certificate and Voucher program. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD.

ABSORPTION. In portability, 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.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION. The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNUAL BUDGET AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

ANNUAL INCOME. The anticipated total Annual 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.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

APPLICANT. (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

AREA EXCEPTION RENT. Rent based on a HUD- approved payment standard amount that is higher than the basic range for a designated part of the fair market rent area ("exception area").

"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.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BUDGET AUTHORITY. An amount authorized and appropriated by the Congress for payment to HAs 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 CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing

COOPERATIVE. A dwelling unit owned and or shared by a group of individuals who have individual sleeping quarters and share common facilities such as kitchen, living room and some bathrooms.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, 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 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

CONTRACT. (See Housing Assistance Payments Contract.)

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

DISABLED PERSON. A person who is any of the following:

A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C.423).

A person who 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 ability to live independently could be improved by more suitable housing conditions.

A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

DISABLED FAMILY. A family where the head or spouse meet any of the above criteria for disabled person.

DISPLACED PERSON/FAMILY. A person or family 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 under federal disaster relief laws.

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, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

ELDERLY HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See Area Exception rent

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

FAMILY. "Family" includes but is not limited to:

An Elderly Family or Single Person as defined in 24 CFR 5.403(b),

The remaining member of a tenant family, and

A Displaced Person

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is

permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The size of the Certificate or Voucher issued to the family based on the PHA's subsidy standards.

FOSTER CHILD CARE PAYMENT. 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.

FUNDING INCREMENT. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

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).

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, country, municipality or other governmental entity or public body authorized to administer the program. The term "PHA" includes an Indian housing authority (IHA). ("PHA" and "PHA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease.

An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when assets exceed \$5,000.

INITIAL PHA. In portability, the term refers to both:

A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

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.

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.

INDIAN. Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either:

By exercise of the power of self-government of an Indian Tribe, independent of State law,
or

By operation of State law providing specifically for housing authorities for Indians.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION. The area in which the PHA has authority under State and local law to administer the program.

LANDLORD. This term means 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.

LARGE VERY LOW INCOME FAMILY. Prior to the 1982 regulations, this meant a very low income family which included six or more minors. This term is no longer used.

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. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

LEASE ADDENDUM. See Tenancy Addendum

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who:

Is determined to be essential to the care and well-being of the person.

Is not obligated for the support of the person.

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

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families without regard to their federal preference status.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the certificate program, HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family 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

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total 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 Households only. These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

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.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

NON CITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as **Subsidy Standards**] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. A family that has been admitted to the PHA's certificate program or voucher 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 subsidy payment for a family (before deducting the family contribution). The PHA sets a payment standard in the range from 90 to 110 percent of the current FMR/exception rent limit.

PERSONS WITH DISABILITIES. Individuals with any condition or characteristic that renders a person an individual with a handicap as defined in 24 CFR 8.2.

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

PROGRAM. The Section 8 tenant-based assistance program under this part.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

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). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

REASONABLE RENT. A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING PHA. In portability: An PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a certificate or 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. There are annual and interim recertifications.

REGULAR TENANCY. In the pre-merger Certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER. The total monthly rent payable to the owner under the lease for the unit. 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 (“residency preference area”).

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESIDENT ASSISTANT. A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY. For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, 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.

SECURITY DEPOSIT. A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

SINGLE PERSON. A person living alone or intending to live alone.

SPECIAL ADMISSION. Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24 CFR 982, which 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).

SPOUSE. The husband or wife of the head of the household.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

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.

SUBSTANDARD UNIT. Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING. Stopping the clock on the term of a family's certificate or voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. 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.

TENANCY ADDENDUM. In the lease between the tenant and the owner, the lease language required by HUD.

TENANT. The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing).

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

UNIT. Residential space for the private use of a family.

UNUSUAL EXPENSES. Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract 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 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 healthy living environment.

UTILITY REIMBURSEMENT PAYMENT. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% 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% 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 Certificate and Voucher Programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

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 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.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

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.

WELFARE RENT. This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

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

CITIZEN. A citizen or national of the United States.

EVIDENCE. Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

PHA. A housing authority- either a public housing agency or an Indian housing authority or both.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

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.

NONCITIZEN. A person who is neither a citizen nor nation of the United States.

PHA. A housing authority who operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

APPENDIX 1 HUD NOTICES

2013-04	Guidance on Verification of Excluded Income
2014-20	Program Eligibility Regardless of Sexual Orientation, Gender Identity or Marital Status
2015-21	Amendment to the Definition of Tuition
2016-05	Streamlining Administrative Regulations
2016-09	Housing Choice Voucher Family Moves with Continued Assistance
2018-24	Verification of Social Security Numbers



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
PUBLIC AND INDIAN HOUSING

Special Attention of:

NOTICE: PIH-2013-04 (HA)

Public Housing Agencies;
Public Housing Hub Office Directors;
Public Housing Program Center Directors;
Public Housing Division Directors;
Regional Directors;
Field Office Directors

Issued: 01/28/13
Expires: Effective until amended,
superseded, or rescinded

Cross References: 24 CFR 5.609(c)
24 CFR 960.259(a)
24 CFR 960.259(c)
24 CFR 982.516(a)
24 CFR 982.551(b)

Subject: Guidance on Verification of Excluded Income.

1. Purpose:

This notice provides clarification and guidance on the verification requirements of income excluded from the determination of annual income in accordance with 24 CFR 5.609(c).

2. Applicability:

This notice applies to the Public Housing, Housing Choice Voucher (including the project-based certificate and voucher), and Section 8 Moderate Rehabilitation programs.

3. Background:

In an effort to reduce administrative burdens on Public Housing Agencies (PHAs), HUD is providing guidance and clarification on the requirements to verify income that is excluded from the determination of annual income. There are two categories of excluded income: fully excluded and partially excluded. Each category has different verification requirements and Sections 4 and 5 of this notice provide details on how each is to be verified.

4. Fully Excluded Income:

Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination. For fully excluded income, the PHA is **not required** to:

- Verify the income in accordance with the HUD-prescribed verification hierarchy;
- Document in the tenant file why third party verification was not available as required by 24 CFR 960.259(c)(i) and 24 CFR 982.516(a)(2); and
- Report the income in Section 7 of the form HUD-50058.

PHAs may accept an applicant or participant’s self-certification as verification of fully excluded income. The PHA’s application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. PHAs have the option of elevating the verification requirements if necessary, to determine if a source of income qualifies for a full exclusion.

Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income from a live-in aide.

For a complete list of income exclusions, see 24 CFR 5.609(c).

5. Partially Excluded Income:

Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family’s annual income. For partially excluded income, PHAs are required to:

- Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- Report the income in Section 7 of the form HUD-50058. The example below shows how the partially excluded income for a full-time student should be reported on the form HUD-50058.

7a. Family member name	No.	7b. Income Code	7c. Calculation (PHA use)	7d. Dollars per year	7e. Income exclusion	7f. Income after exclusions (7d minus 7e)
Jane Smith	3	W	\$3,000-\$480=\$2,520	\$3,000	\$2,520	\$480

Examples of partially excluded income that are subject to regular verification requirements include:

- The Department of Veterans Affairs “Aid and Attendance” benefits – in accordance with 24 CFR 5.609(c)(4), these benefits may be excluded from income if they are used “specifically for, or in reimbursement of, the cost of medical expenses for any family member.” Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that may be counted as medical expenses. The PHA must verify the amount provided for aid and attendance medical expenses and the amount actually being used by the veteran for such expenses. Any portion of the benefit not used for such expenses would continue to be counted as income by the PHA when determining the family’s annual income.
- Earnings in excess of \$480 for full-time students 18 years old or older (24 CFR 5.609(c)(11) – in order to determine the amount of earnings to include in the calculation of the family’s annual income, the PHA must verify the amount of employment income for these family members.

For a complete list of income exclusions, see 24 CFR 5.609(c).

6. Further Information. Any questions related to this notice should be directed to the nearest HUD Office of Public Housing within your region. Locations of these offices are available on HUD's website at <http://www.hud.gov>.

/s/
Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SPECIAL ATTENTION OF:

Regional Managers; Office of Public Housing
Directors; Program Center Coordinators;
Public Housing Agencies; Resident
Management Corporations

NOTICE PIH 2014-20 (HA)

Issued: August 20, 2014
This notice remains in effect until
amended, superseded or rescinded.

SUBJECT: Program Eligibility Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule

1. Purpose: On February 3, 2012, HUD published a final rule entitled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (77 FR 5662) ("Equal Access Rule" or "rule"). The final rule requires HUD's assisted and insured housing programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. The rule revises HUD's general program requirements by adding the following provisions at 24 CFR 5.105(a)(2):
 - (a) A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration shall continue to be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status, and
 - (b) No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, or any other recipient or sub-recipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted or HUD-insured housing for purposes of determining eligibility or otherwise making such housing available. (See Permissible Inquiries in item 6 herein.)

Through this notice, the Office of Public and Indian Housing (PIH) provides guidance on how the Equal Access Rule applies to PIH-assisted housing programs administered by public housing agencies (PHAs). The rule does not create any additional protected classes under the Fair Housing Act or any other civil rights law. Although the Fair Housing Act does not include sexual orientation, gender identity, or marital status as protected classes, complaints involving LGBT persons may raise claims that are actionable under one or more of the Fair Housing Act's protected classes (See section 10 of this notice).

2. Applicability: The Equal Access Rule applies to all HUD-assisted and HUD-insured housing. This notice applies to all PIH programs administered by PHAs, affiliates,

instrumentalities and mixed-finance owner-entities, specifically the Public Housing, Section 8 Housing Choice Voucher (HCV), Project-Based Voucher (PBV), Project-Based Certificate (PBC) and Moderate Rehabilitation programs (collectively PIH-assisted housing programs). This notice also applies to PHAs under Moving to Work (MTW) and Rental Assistance Demonstration (RAD). This notice describes requirements and provides examples applicable to all PIH-assisted housing programs.

In addition, the Equal Access Rule applies to private owners that participate in housing programs funded under section 8 of the U.S. Housing Act of 1937, 42 U.S.C. § 1437, who must make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status.

A private owner that participates in the HCV program becomes subject to the rule when the owner executes a housing assistance payments (HAP) contract with the PHA. It is at that point the owner becomes subject to the rule.

All housing providers are also subject to applicable state and local fair housing laws prohibiting discrimination because of sexual orientation, gender identity and/or marital status.

Individual offices within HUD are providing their own guidance on how the Equal Access Rule affects their programs and program participants. In addition, HUD's Native American programs will incorporate the requirements of making housing available regardless of sexual orientation, gender identity, or marital status and prohibiting inquiries on the basis of sexual orientation and gender identity after conducting tribal consultation.

3. **Terms and Definitions.** PHAs must use federal definitions and follow federal eligibility requirements in their administration of PIH-assisted housing programs. Accordingly, PHAs are required to update their admissions and continued occupancy policies (ACOP) and/or Administrative Plans consistent with the Equal Access Rule. The rule defines "sexual orientation" and "gender identity" at 24 CFR 5.100 and clarifies the term "family" at 24 CFR 5.403. *Sexual orientation* means homosexuality, heterosexuality or bisexuality. *Gender identity* means actual or perceived gender-related characteristics.

The term "*family*" includes, but is not limited to the following, **regardless of actual or perceived sexual orientation, gender identity, or marital status:**

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
- (2) A group of persons residing together and such group includes, but is not limited to:
 - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) An elderly family;
 - (iii) A near-elderly family;
 - (iv) A disabled family;
 - (v) A displaced family; and

(vi) The remaining member of a tenant family.

In addition, for categorizing family as defined above, the terms disabled family, elderly family and near-elderly family (per 24 CFR 5.403) are:

Disabled family means a family whose head (including co-head), spouse or sole member is a person with a disability.

Elderly family means a family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age.

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

4. Required Revisions to PHA Plans and Policies: PHAs are required to review and update, if necessary, their ACOP and/or Administrative Plans to ensure consistency with the Equal Access Rule.
 - a. Annual Plan: In accordance with 24 CFR 903.7(b), a PHA's Annual Plan includes a statement of the PHA's policies governing eligibility, selection and admissions. The PHA's definition of family as provided in the admissions and continued occupancy policies will have to be amended as a result of the rule and this notice. Thus, the next Annual Plan submitted by the PHA subsequent to the posting of this notice must include a statement in the section on eligibility, selection and admissions to reflect the change in the definition of family and the requirement to provide equal access regardless of sexual orientation, gender identity or marital status.
 - b. Section 8 Administrative Plan: In accordance with 24 CFR 982.54, PHAs must revise their Administrative Plans to reflect the definition of "family" at 24 CFR 982.4 and the definition of "family composition" at 24 CFR 982.201(c):
 - i. *Family*. A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program. See discussion of family composition at section 982.201(c).
 - ii. *Family Composition*. See definition of "family" in 24 CFR 5.403.
 - c. Public Housing Tenant Selection Policies: In accordance with 24 CFR 960.202, PHAs must revise their tenant selection policies to reflect the definition of "family" at 24 CFR 945.105:
 - i. *Family*. A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program.

5. Equal Access and Prohibited Inquiries: Housing assisted under the U.S. Housing Act of 1937 must be made available without regard to actual or perceived sexual orientation, gender identity or marital status. HUD clarified the term “family” at 24 CFR 5.403 to preclude the exclusion of otherwise qualified persons who may identify as LGBT individuals, who have an LGBT relationship or who may be perceived as such.

PHAs and owners are prohibited from inquiring about an applicant’s or participant’s sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available. This does not prohibit an individual from voluntarily self-identifying sexual orientation or gender identity.

6. Permissible Inquiries: The Equal Access Rule does not prohibit all inquiries concerning an applicant’s or participant’s sex. For example, the rule permits a PHA to ask an applicant’s or participant’s sex in order to determine the number of bedrooms for which a household may be eligible based on the PHA’s written occupancy standards.

In addition, PHAs must collect and report on a program participant’s sex through form HUD-50058 and submit the data electronically to the Information Management System/PIH Information Center (IMS/PIC)

(http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/50058.) HUD does not require reporting on sexual orientation through form HUD-50058 or in any other form. As noted above, sexual orientation means homosexuality, heterosexuality or bisexuality.

PHAs may maintain voluntary and anonymous reporting of sexual orientation or gender identity for compliance with data collection requirements by state and local governments or other federal assistance programs so long as information obtained pursuant to such reporting has no bearing on eligibility for housing or program participation.

7. Program Compliance: A PHA’s or owner’s actions or policies that are inconsistent with the rule could result in HUD’s determination that the PHA or owner has failed to comply with program requirements. HUD may pursue any available remedy, including sanctions or corrective action plans that it deems appropriate to remedy the violation. HUD may review a PHA’s or owner’s policies and performance to determine if it is complying with the Equal Access Rule. This may include monitoring by PIH or HUD’s Office of Fair Housing and Equal Opportunity (FHEO). It may also include requests for information concerning allegations of noncompliance. The PHA or owner must cooperate with HUD and provide access to staff, records and beneficiaries as needed.

Typically, HUD seeks voluntary corrective action in the event a PHA or owner violates a requirement under the Equal Access Rule. Applicants and participants may request corrective action directly from the PHA if they believe they have been denied housing or subjected to improper inquiries in violation of the rule.

8. Complaints to PHAs: Upon receipt of a complaint from an applicant or participant alleging a violation of the Equal Access Rule, the PHA must determine if a program violation occurred and implement appropriate corrective action(s). The PHA may seek assistance from its local HUD Field Office of Public Housing in order to make this determination. In all cases, the PHA may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act (see sections 10 and 11).

In addition, the PHA must follow its written policies for responding to complaints; policies must include that the PHA provide written notice of receipt of the complaint to those alleged to have violated the rule and that the complainant be informed that such notice was made. Following an investigation of the allegations, the PHA must provide the complainant and those alleged to have violated the rule with findings from the investigation and either a proposed corrective action to resolve any violation or an explanation as to why corrective action is not warranted. The PHA must keep records of all complaints, investigations, notices and corrective actions consistent with its current record-keeping obligations.

9. Examples of Program Violations under the Equal Access Rule:

- a. A PHA asks a woman who has applied for assistance under a PHA's HCV program to update her eligibility information prior to the PHA issuing a voucher. She brings another woman with her to the PHA office. While completing program verifications, her companion puts her arm around her. The PHA's occupancy specialist believes that the women are lesbians and denies the woman's application because of perceived sexual orientation. The actions taken by the PHA's occupancy specialist constitute a violation of 24 CFR 5.105(a)(2)(i) by the PHA because the denial of housing assistance was based on perceived sexual orientation.
- b. A gay man who currently receives rental assistance under the PBV program contacts the property owner and requests to add his male partner, who is also income-eligible, to the lease so they may live together. The owner seeks approval from the PHA. The PHA denies the request stating that the couple does not meet the PHA's definition of "family," which requires that family members be related either through blood or marriage. The owner informs the family of the denial. The PHA's restrictive definition of "family" violates the rule's prohibition on considering sexual orientation or marital status when determining who qualifies as a "family" and who may occupy HUD-assisted housing. A PHA must determine whether a family is eligible for assistance without regard to the sexual orientation, gender identity, or marital status of any of its members. *See* 24 CFR 983.8 ("The PBV program requires compliance with all equal opportunity requirements under federal law and regulation, including the authorities cited at 24 CFR 5.105(a)"). In addition, the denial is a violation of 24 CFR 5.105(a)(2)(i) because the denial was based on sexual orientation and/or marital status.
- c. A gay man who currently receives rental assistance under the PBV program contacts the property owner to request to add his male partner, who is also income-eligible, to the lease so they could live together. The owner asks "Are you gay?" and denies the request when the tenant confirms that he is gay. The actions taken by the owner constitute a

violation of 24 CFR 5.105(a)(2)(i) and (ii) because the owner inquired about sexual orientation for the purpose of determining eligibility and making housing available, and the denial was based on sexual orientation and/or marital status.

10. Fair Housing Act Implications: The Fair Housing Act does not include sexual orientation, gender identity or marital status as protected classes. However, complaints involving LGBT persons may raise claims that are covered by one or more of the Fair Housing Act's protected classes. For example, courts have recognized that the Fair Housing Act's prohibition against discrimination because of sex includes discrimination based on non-conformance with sex stereotypes. Therefore, under certain circumstances, complaints involving sexual orientation or gender identity may be investigated under the Fair Housing Act.

When reviewing alleged violations of the Equal Access Rule, FHEO determines whether the Fair Housing Act is implicated. If HUD lacks jurisdiction to investigate a complaint from an LGBT person, an applicant or beneficiary may still be protected under state and local laws that include sexual orientation, gender identity and/or marital status as protected classes. Many states and local jurisdictions prohibit housing discrimination on the basis of sexual orientation, gender identity and/or marital status, and HUD may refer complaints or other information concerning these protected classes to appropriate state and local fair housing enforcement agencies.

Below are examples of actions that may violate both the Fair Housing Act and the Equal Access Rule:

- a. A gay man applies for public housing, but the PHA denies his application because he is gay and it presumes that, because he is gay, he is HIV-positive and may infect other tenants. This action violates 24 CFR 5.105(a)(2)(i) because the man is denied HUD-assisted housing based on sexual orientation. This action also violates the Fair Housing Act because the man is regarded as having a disability, HIV/AIDS. Disability, which includes a record of having a disability, or being regarded as having a disability, is a protected class under the Fair Housing Act.
- b. A lesbian tenant who dresses in masculine clothes alleges the PHA's property manager at the public housing complex where she resides refuses to make necessary repairs to her apartment. She alleges the property manager tells her that he "only does repairs for real ladies." An investigation confirms that the property manager refused to make the repairs because the tenant is a lesbian and did not conform to gender stereotypes. This action violates 24 CFR 5.105(a)(2)(i) because the action of the PHA's representative is based on sexual orientation and/or gender identity and is affecting the habitability of the tenant's housing. The rule requires that housing be made available regardless of the actual or perceived sexual orientation, gender identity, or marital status of a resident. This complaint may also raise a claim under the Fair Housing Act as discrimination based on sex, because the property manager's actions are based on the tenant's nonconformance with gender stereotypes.

- c. A gay man alleges he was harassed by the PHA's maintenance worker at the public housing complex where he resides. The maintenance worker routinely told the tenant "you walk like a girl" and "you should man up," whistled at him and made sexual gestures. The tenant reported the harassment to the PHA, but the PHA made no effort to stop it. Therefore, as a result of inaction by the PHA, the tenant moved out. Due to the continued harassment, the PHA violated the requirement at 24 CFR 5.105(a)(2)(i) to make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status. The rule prohibits consideration of a person's sexual orientation throughout the tenancy, not just at the time of application. This conduct may also be considered sex discrimination under the Fair Housing Act because the actions of the maintenance worker may constitute discrimination based on gender non-conformity and/or sexual harassment.

In the example above, the tenant moved out of the assisted housing unit as a result of the harassment by the PHA maintenance work. Please note; a program participant is not required to leave the assisted housing unit, or terminate participation in the HCV program, for the purpose of filing a complaint for violation under the Equal Access Rule.

11. Further information: For further information about this Notice, contact your local HUD Office of Public Housing. Contact information is available through the PIH Customer Service Center, 1-800-955-2232 (toll free), and is available on HUD's website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/field_office. Fair Housing questions may be directed to appropriate Fair Housing Field Offices. Complaints may be filed electronically at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

Jemine A. Bryon, Acting Assistant Secretary
for Public and Indian Housing



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

Office of Housing
Office of Public and Indian Housing

Special Attention of:

NOTICE: PIH 2015-21
H 2015-12

Multifamily Regional Center Directors
Multifamily Hub Directors
Multifamily Program Center Directors
Supervisory Housing Project Managers

Issued: December 10, 2015

Expires: This notice remains in effect until amended, revoked, or superseded.

Rural Housing Service (RHS) Directors
Account Executives
Contract Administrators
Owners, Management Agents Administering
Multifamily Housing Assistance Programs
Public Housing Agency Directors
Section 8 and Public Housing Administrators
HUD Directors of Public Housing
PIH Program Center Coordinators

Cross References: Fiscal Year 2012 Appropriations; Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance (71 FR 18146, appendix A); 24 CFR 5.609(b)(9); 24 CFR 5.609(c)(6)

Public Housing Division Directors

Subject: Amendment to the Definition of Tuition

I. Purpose

This notice serves to amend the definition of tuition found in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A) which is used in both Multifamily Housing and Public and Indian Housing (PIH) programs. The *Supplementary Guidance* states that “tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled¹.” To promote consistency across HUD’s programs and provide PHAs and O/As with a standard definition of tuition and fees, HUD is aligning with the Department of Education’s definition of tuition and fees. With the issuance of this notice, tuition will now be defined in the same manner in which the Department of Education defines “tuition and fees.” Section IV of this Notice provides details of the amended definition.

This Notice is effective upon publication.

¹ The term “tuition” is defined in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A). Multifamily Housing programs define the term tuition in HUD Handbook 4350.3 REV-1.

II. Background

HUD has become aware of many institutions of higher education moving from a traditional tuition-only structure to a new tuition and fee structure. Fees often include, but are not limited to, student service fees, student association fees, student activities fees, and laboratory fees. HUD believes the inclusion of many of these required fees within the definition of tuition will increase opportunities for its participants to further their education.

This position was reinforced with the inclusion of the language (in bold below) of section 215(b) in the Fiscal Year 2012 appropriations. The FY 2012 appropriations require that the amount of any financial assistance an individual receives in excess of amounts received for tuition and “other required fees and charges” be considered when determining an applicant’s or participant’s annual income. For purposes of section 8 programs only see section 215 (b) below.

SEC. 215. (b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (**in excess of amounts received for tuition and any other required fees and charges**) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

III. Applicability

All provisions of this notice apply to owners and management agents (O/As) and public housing authorities (PHAs) administering the following covered programs under section 8 of the United States Housing Act of 1937:

- A. Project-based Section 8
 - 1. New Construction
 - 2. State Agency Financed
 - 3. Substantial Rehabilitation
 - 4. Section 202/8
 - 5. Rural Housing Services Section 515/8
 - 6. Loan Management Set-Aside (LMSA)
 - 7. Property Disposition Set-Aside (PDSA)
- B. Section 8 Housing Choice Voucher (including Project-Based Voucher and Project-Based Certificate)

C. Moderate Rehabilitation

In programs, other than HUD's section 8 programs, that follow the definition of annual income in 24 CFR part 5 (e.g. the Public Housing program), PHAs and other grantees may continue to exclude the full amount of student financial assistance from a person's annual income in accordance with 24 CFR § 5.609(c)(6).

The amended definition of tuition in section IV of this notice applies to all HUD programs. The income determination (section V) and verification requirements (section VI) may also apply to other HUD programs that follow 24 CFR part 5. Administrators and participants in those programs should contact the appropriate HUD program office overseeing your program if you have questions concerning the implementation of HUD's amended definition of tuition or the income determination and verification requirements for your program.

IV. Amended Definition of Tuition as Defined by the Department of Education

Prior to this Notice, when determining an applicant's or participant's income, HUD's definition of tuition required PHAs and O/As to defer to the definition of tuition used by the institution of higher education in which the student is enrolled. The definition can vary across institutions and academic programs. With the inclusion of "other required fees and charges" being added to the definition of tuition, PHAs and O/As may experience difficulty in determining income.

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students.² These values represent 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 entire 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. The student who does not pay the charges is an exception.³ Examples of required fees 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 of these expenses 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.

² See, Integrated Postsecondary Education Data System Glossary for definition of "tuition" and "tuition and fees." Retrieved February 5, 2013, from <http://nces.ed.gov/ipeds/glossary/?charindex=T>

³ *Id.*

V. Income Determination

In implementing the amended definition of tuition, for section 8 programs only, O/As and PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

Under other programs, such as the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income pursuant to 24 CFR § 5.609(c)(6).

Example:

Kim, a 22 year old, married, participant in a Section 8 program is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess \$1,000 (\$7,000 - \$6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD's previous definition of tuition, Kim's housing authority might have considered her financial assistance to be in excess of \$2,000 if her college's definition of tuition did not include fees. Under HUD's new definition, Kim's housing authority will determine her excess financial assistance to be \$1,000 rather than \$2,000 because the required fees and charges are included with tuition.

Using the same example, if Kim was a participant in the Public Housing program, the full amount of financial assistance she received would be excluded from her income in accordance with 24 CFR § 5.609(c)(6).

VI. Verification of Tuition and Fees

O/As and PHAs must verify the amounts of tuition and required fees charged by the school when determining annual income. O/As and PHAs may wish to verify those amounts using the student's bill or account statement (including an online account statement) as provided by the school's bursar's office, or by contacting the bursar's office directly. It is also recommended that you visit the school's website as many institutions of higher education provide an itemized list covering tuition and fees that are charged to a majority of their students on their websites.

VII. Contact Information

For those administering or participating in programs administered by the Office of Multifamily Housing, please contact Michael Sharkey via email, Michael.A.Sharkey@hud.gov should you have questions regarding this Notice. For those administering or participating in PIH programs, you may contact your local [HUD Field Office of Public Housing](#). Persons with hearing or speech impairments may access their field office via TTY by calling the Federal Information Relay Service at (800) 877-8339.

_____/s/_____
Lourdes Castro Ramirez,
Principal Deputy Assistant Secretary
for Public and Indian Housing

_____/s/_____
Edward Golding
Principal Deputy Assistant Secretary for
Housing



U.S. Department of Housing and Urban Development Office of Public and Indian Housing

SPECIAL ATTENTION OF:

Public Housing Agency Directors
Public Housing Hub Office Directors
Public Housing Field Office Directors

NOTICE PIH 2016-05 (HA)

Issued: April 7, 2016

This notice remains in effect until amended, superseded, or rescinded

Subject: Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies

- (1) **Purpose.** This Notice presents implementation guidance for provisions included in the regulation titled “Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs,” also known as the “streamlining rule.” This Notice addresses provisions only as they apply to programs administered by public housing agencies (PHAs).
- (2) **Background.** Published on March 8, 2016, the final streamlining rule contains 16 provisions. All of the provisions touch on programs administered by HUD’s Office of Public and Indian Housing; some of the provisions apply as well to multifamily programs administered by HUD’s Office of Housing and/or HUD’s Office of Community Planning and Development. The background section of the rule explains in detail how the provisions were selected for inclusion in the rule.

While some of the provisions included in the final rule are fairly simple and therefore require no implementation guidance, others are less straightforward and require further implementation guidance. This Notice addresses each provision and either provides implementation guidance directly or refers the reader to other implementation resources.

- (3) **Applicability to Moving to Work (MTW) Agencies.** This Notice applies generally to MTW agencies. With respect to individual MTW agencies, any specific regulatory provision that is addressed in this Notice and has been waived as part of the agency’s approved Annual MTW Plan does not apply to that agency.
- (4) **Structure.** This Notice presents each provision as a separate attachment. Each attachment follows a uniform structure:
 - (a) Regulation;

- (b) Programs to which the provision applies;
- (c) Description of change;
- (d) Background;
- (e) Whether adoption of the change is mandatory or at the discretion of the public housing agency. If a PHA adopts a provision that is addressed in its Admissions and Continued Occupancy Policy (ACOP) and/or Administrative Plan (Admin. Plan), then the PHA must amend its ACOP/Admin. Plan prior to implementing the provision. If adoption of a provision constitutes a significant amendment to a PHA’s Plan according to the PHA’s definition of a significant amendment, then the PHA must complete a significant amendment to the PHA Plan as described in 24 CFR 903.21.
- (f) Effective date. For any provision that requires a PHA to update its ACOP and/or Admin. Plan or that requires a significant amendment to the PHA Plan, a PHA must begin the process of updating its ACOP/Admin. Plan or begin the significant amendment process as soon as possible following the publication of this final rule so that the provision may be implemented as soon as possible following the effective date of the provision.

(5) **Summary chart.** The chart below lists each of the attachments to this Notice, showing, for each provision, whether its adoption is mandatory or at the discretion of the PHA.

Attachment	Provision	Mandatory or Discretionary
A	Verification of Social Security Numbers	mandatory
B	Definition of extremely low-income families	mandatory
C	Exclusion of mandatory education fees from income	mandatory
D	Streamlined annual reexamination for fixed sources of income	discretionary
E	Earned income disregard	mandatory
F	Family declaration of assets under \$5,000	discretionary
G	Utility reimbursements	discretionary
H	Public housing rents for mixed families	mandatory
I	Tenant self-certification for Community Service and Self-Sufficiency Requirement	discretionary
J	Public housing grievance procedures	discretionary

K	Biennial inspections and the use of alternative inspection methods	discretionary
L	Housing Quality Standards reinspection fee	discretionary
M	Exception payment standards for providing reasonable accommodations	discretionary
N	Family income and composition: regular and interim examinations	discretionary
O	Utility payment schedules	mandatory

- (6) **Paperwork Reduction Act.** The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control numbers 2577-0220 and 0169.

HUD is submitting a Paperwork Reduction Act (PRA) request to OMB. With an approval and PRA number, PHAs may submit requests to use an alternative inspection method to: Deputy Assistant Secretary, Real Estate Assessment Center, 550 12th Street SW, Washington, DC 20410. REAC anticipates a review period of up to 90 days from the date of the receipt of the request, without presumption of approval if REAC does not respond to the PHA within 90 days.

/s/

Principal Deputy Assistant Secretary
Lourdes Castro Ramírez

Attachment A: Verification of Social Security Numbers

Regulation: 24 CFR §5.216

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: This provision modifies the regulation as it applies to program *applicants* (as differentiated from program *participants*). The change creates a 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for an SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the PHA or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

In terms of offering a grace period and an extension, if merited, a PHA will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90-day period, then the PHA must determine whether a 90-day extension is merited. If it is not merited, then the PHA must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then the PHA must either verify the SSN for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

Background: This change brings the guidance for applicants more closely in line with longstanding guidance for program participants (at 24 CFR 5.216(e)(2)(ii)). For applicants, the change is slightly more flexible, requiring at least one 90-day grace period if the SSN has not been *verified* (for program participants, the standard is that the SSN has not been *assigned*). Program staff, in considering the change, determined that greater flexibility could make a difference for applicant families who adopt a child or add a foster child within the 6-month period preceding their admission to the program; such a child may already have been assigned a SSN, but there may be circumstances that make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016

Attachment B: Definition of extremely low-income families

Regulation: 24 CFR §§5.603, 903.7, and 960.102

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: These regulations have been revised to reflect the new statutory definition of an extremely low-income (ELI) family. Section 238 of HUD's FY 2014 Appropriations Act¹ amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) to define ELI families as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. The federal poverty level provision in the definition of ELI families does not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States.

Background: Previously, there was no statutory definition of ELI families, and the regulatory definition did not take the federal poverty level into consideration. The adoption of a statutory definition that takes the federal poverty level into account is intended to increase access to HUD rental assistance for working-poor families in areas where median incomes are so low that a family with a full-time worker may have an income that exceeds 30 percent of the area median income, even though the family's income is below the federal poverty level. The revised definition ensures that such a family will not be skipped over on the waiting list as a result of the ELI admission targeting requirements in the public housing and Housing Choice Voucher programs. For the public housing program, not less than 40 percent of the units that become available per PHA fiscal year must be made available for occupancy by ELI families. For the HCV program, not less than 75 percent of new admissions from the PHA waiting list during the PHA fiscal year must be ELI families.

HUD determines the ELI limits for all areas in the United States annually. New Housing Choice Voucher and public housing income limits are generally issued in March. The ELI limits are available at the following Web site: <https://www.huduser.gov/portal/datasets/fmr.html>.

PHAs do not need to research the federal poverty level to comply with the ELI definition, since the HUD-published ELI dollar amounts are calculated in accordance with the new definition and reflect the higher of 30 percent of area median income or the federal poverty level for the metro area or non-metropolitan county. The ELI limits for each metropolitan area and non-metro county are listed by dollar amount and family size. When calculating the ELI limits, HUD uses the poverty guidelines issued by the Department of Health and Human Services for the 48 contiguous states and the District of Columbia (lower 48 states), Alaska, and Hawaii.

In some communities with very low median incomes, the federal poverty level may equal or exceed the very low-income (VLI) limit for some or all household sizes. (In general, a VLI family is defined as a family whose income does not exceed 50 percent of the area median income.) In these relatively rare instances, the ELI limit is set at the VLI limit, and consequently any family whose income meets the VLI limit also qualifies as an ELI family. From a practical

¹ HUD's 2014 Appropriations Act is Title II of Division L of Public Law 113-76, 128 Stat. 5, approved January 17, 2014.

standpoint, in these rare circumstances, this simply means that a VLI/ELI family who is admitted to the HCV or public housing program counts as an ELI family for ELI targeting requirements.

Mandatory or discretionary: Mandatory

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).

Attachment C: Exclusion of mandatory education fees from income

Regulation: 24 CFR §5.609(b)(9)

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: This provision amends the definition of “income” to exclude from calculations of individual income any financial assistance received for mandatory fees and charges (in addition to tuition). Notice PIH 2015–21 provides guidance as to what constitutes such fees. The notice discusses the definitions of tuition and fees used by the Department of Education, provides examples on calculating income, and explains how to verify fee information.

For the *public housing program*, there is no change. The example below shows how financial assistance is treated in the public housing program.

Kim, a 22 year–old, married, participant in the public housing program, is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the full amount of financial assistance Kim receives (\$7,000) while participating in the program continues to be excluded from her annual income pursuant to 24 CFR § 5.609(c)(6).

For *section 8 programs* (HCV, PBV, Sec. 8 Mod. Rehab.), the amended definition of “income” may result in a change in how such income is calculated, as explained in the example below:

Kim, a 22 year–old, married, participant in a section 8 program, is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess \$1,000 (\$7,000 – \$6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD’s previous definition of tuition, Kim’s housing authority might have considered her income from financial assistance in excess of tuition to be \$2,000 (excess of \$1,000, as calculated above, plus total fees of \$1,000) if her college’s definition of tuition did not

include fees. Under HUD's new definition, Kim's housing authority will determine her excess financial assistance to be \$1,000 rather than \$2,000, because the required fees and charges are included with tuition.

Background: Many institutions of higher education have moved from a traditional, tuition-only structure to a new tuition-and-fee structure. Fees often include, but are not limited to, student service fees, student association fees, student activities fees, and laboratory fees. HUD believes that inclusion of many of these required fees within the definition of tuition will increase opportunities for its participants to further their education.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016

Attachment D: Streamlined annual reexamination for fixed sources of income

Regulation: 24 CFR §§960.257, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: This provision offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this Notice, the term “fixed-income” includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

This provision is available for program participants only and may be implemented at the family’s next annual reexamination following adoption of the provision in the PHA’s ACOP or Admin. Plan. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously.

In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one

income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, *third-party verification of all income amounts for all family members must be performed at least every three years*. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third-party verification of *all* income amounts. This also means that if a family member with a fixed-income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant’s first reexamination following PHA’s adoption of provision

	Under previous regulation	Under this regulation
January 2016 — baseline year	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)
January 2017	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl’s income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only as a result of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification</p>
January 2018	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify</p>	<p>Carl’s income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-</p>

	all income amounts using third-party verification.	provided, third-party generated documentation. The PHA must verify the non-fixed amounts using third-party verification
January 2019	Carl's income consists of 90% fixed sources and 10% non-fixed sources. The PHA must verify all income amounts using third-party verification.	Carl's income is reported to be 90% fixed sources and 10% non-fixed sources The PHA must verify all income amounts using third-party verification.

Background: Existing guidance (Notice PIH 2010–19) explains how to identify and verify existing sources of income using HUD’s Enterprise Income Verification system. Non-fixed sources of income remain subject to full income-verification requirements. For example, if a family member has both fixed and non-fixed sources of income, this provision may be applied only to the fixed sources of income.

Mandatory or discretionary: Discretionary. Prior to adopting streamlined income determinations, PHAs must amend any policies governing income determinations to identify the sources of income that will be considered eligible for a streamlined income determination. Note: A PHA that adopts this provision must continue to obtain family member signatures on the consent forms required by 24 CFR 5.230, as if this provision had not been adopted.

Effective date: April 7, 2016

Attachment E: Earned income disregard

Regulation: 24 CFR §§5.617, 960.255

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: The new regulatory provisions limit to 24 straight months the time period during which a family member is eligible to receive the benefit of the earned income disregard (EID), which streamline the administration of the EID by eliminating the requirement for PHAs to track family member changes in employment over a 4-year period. There are no changes to EID eligibility criteria, the benefit amount of the EID, the single lifetime eligibility requirement, or the ability of the applicable family member to stop and restart employment during the eligibility period.

Under the previous regulations, families were eligible to receive the EID benefit for no more than 24 months, which could be spread across a 48-month time period to account for potential changes in the employment status of the family member whose original employment caused the family to be eligible for EID. PHAs were required to track the employment of such family members and stop and start the EID benefit accordingly. The final rule provides:

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.”

Example: Illustration of differences between previous and new EID implementing regulations

	EID under previous regulation	EID under this regulation
January 2017 (month one)	Carl begins working and is eligible for EID. 100% of Carl’s increase in earned income is excluded.	Carl begins working and is eligible for EID. 100% of Carl’s increase in earned

		income is excluded.
July 2017 (month seven)	Carl is laid off. EID “clock” stops.	Carl is laid off. EID “clock” continues to run.
January 2018 (month 13)		Carl’s second 12-month period begins.
February 2018 (month 14)	Carl begins working again. 100% of the increase in earned income due to Carl’s employment is excluded.	Carl begins working again. 50% of the increase in earned income due to Carl’s employment is excluded.
July 2018 (month 19)	Carl’s second 12-month period begins. 50% of the increase in earned income due to Carl’s employment is excluded.	
December 2018 (month 24)		This is the final month during which Carl receives his EID benefit.
June 2019 (month 30)	Carl has benefited from the EID for 24 months total. This is the final month during which Carl receives his EID benefit.	

Families that currently benefit from the EID, or who become eligible prior to the effective date of changes to the ACOF/Admin. Plan/PHA Plan, are eligible to receive the EID benefit for 24 months over a 48-month period, as was in effect prior to the effective date of this provision.

PHAs are advised to notify all participants and applicants who are eligible for the EID of their eligibility.

Background: The earned income disregard is designed to promote self-sufficiency for certain families in public housing and families with disabilities in the HCV program who meet the definition of a “qualified family.” This provision does not change the eligibility criteria for EID or how the EID benefit is calculated. For information about the EID, please see the HCV or Public Housing Occupancy Guidebooks.

Mandatory or discretionary: Mandatory

Note that PHAs operating the public housing program have the discretion to establish income exclusions beyond what is required of the EID, for the public housing program. As such, a PHA could establish alternative EID requirements to encourage employment among public housing

program participants, but these requirements may not be more restrictive than the minimum EID benefit required under 24 CFR §§5.617, 960.255.

Effective date: May 9, 2016

Attachment F: Family declaration of assets under \$5,000

Regulation: 24 CFR §§960.259, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: Under this provision, a PHA must obtain third-party verification of all family assets upon admitting a family to the HCV or public housing program and then again at least every 3 years thereafter. During the intervening annual reexaminations, a PHA has the discretion under this provision to accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

A PHA may obtain a family's declaration of assets under \$5,000 at the family's next interim or annual reexamination following adoption of the provision in the PHA's ACOP or Admin. Plan.

PHAs are required to have all family members 18 years of age and older sign the family's declaration of total assets. For ease of implementation, a PHA may wish to require families to submit a declaration of assets along with the consent forms that are required pursuant to 24 CFR 5.230. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, a PHA must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, a PHA must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the PHA is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

If a PHA adopted the self-certification of assets provision in Notice PIH 2013-03 and wishes now to adopt the provision described in this Notice, then the PHA must obtain third-party verification of all assets of any family at the family's next income redetermination if that family has provided self-certification of assets for the two previous income redeterminations.

Background: The requirement to verify assets is time-consuming for PHAs and families. In addition, assets of \$5,000 or less have little to no effect on family rental payments. This provision is intended to alleviate the burden on PHAs and families of verifying such assets; it also brings the HCV, PBV, and public housing programs in line with Internal Revenue Service guidance for the federal Low Income Housing Tax Credit program. For the LIHTC program,

housing credit agencies and owners are permitted to accept a certification from families that their assets do not exceed \$5,000.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

Attachment G: Utility reimbursements

Regulation: 24 CFR §§960.253, 982.514

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: This provision permits PHAs to make utility reimbursement payments quarterly, rather than monthly, if the total quarterly reimbursement payment due to a family is equal to or less than \$45 per quarter. PHAs may make reimbursement payments retroactively or prospectively. A PHA that adopts this provision, and chooses to make reimbursement payments retroactively, must permit a family to request a hardship exemption, in accordance with 24 CFR 5.630(b)(2). If a family receives a hardship exemption, then the PHA may either reimburse the family on a monthly basis or it may make *prospective* payments to the family, on a quarterly basis.

Quarterly payments must be made at least once per calendar quarter. Prospective payments must be made prior to the start of each quarter; retroactive payments must be made before the end of each quarter, as shown below.

Time period covered by payment	PHA Must Make the Reimbursement Available to the Family No Later Than	
	Prospective	Retroactive
January – March	December 31	March 31
April – June	March 31	June 30
July – September	June 30	September 30
October – December	September 30	December 31

The process for determining the utility reimbursement amount and the ability of PHAs to pay the family or the utility provider directly are not affected by this provision. Nor does the provision affect a PHA's ability to make reimbursements via electronic deposit.

Upon admission to the program or at recertification, the staff person completing Form HUD-50058 will note whether the utility reimbursement is \$15 per month or less. If it is, then the PHA must inform the family whether reimbursement will be retroactive or prospective on a quarterly basis. If the PHA's policy is to reimburse retroactively, then the PHA must also inform the family that they may request a hardship exemption. If the family requests and receives a hardship exemption, then the PHA may either reimburse the family on a monthly basis or it may make prospective payments on a quarterly basis.

If a family leaves the program with an outstanding credit from the PHA for a utility reimbursement, the PHA shall reconcile the credit with the family prior to the expiration of the lease. Please note that, under the HCV program, a family may remain in the unit after leaving the

program. The expiration of the lease does not therefore impact when the PHA reconciles the credit with the family. Reconciliation should take place when the HAP contract terminates or shortly thereafter (i.e., no later than 30 calendar days after HAP contract termination).

Background: Prior to issuance of this regulation, utility reimbursements of any amount were required to be paid monthly.

Mandatory or discretionary: Discretionary. Prior to adopting this quarterly reimbursement provision, a PHA must amend any policies governing rental payments. The policy must state whether the PHA will make quarterly payments retroactively or prospectively. If the PHA will make payments retroactively, then the policy must state whether the PHA's hardship exemption will take the form of monthly reimbursement or quarterly prospective payment. The policy must include a statement about how the PHA will reconcile any outstanding reimbursement due to a family if the family leaves the program.

Effective date: April 7, 2016

Attachment H: Public housing rents for mixed families

Regulation: 24 CFR §5.520(d)

Program to which this provision applies: Public housing

Description of change: This provision changes the methodology for calculating public housing rents for mixed families by requiring PHAs to use the established flat rent applicable to the units. Currently, PHAs use the more complicated system to calculate prorated rent for families by requiring PHAs to determine the maximum rent by establishing the 95th percentile of all total tenant payments (TTP) for each bedroom size. Further, this rule eliminates an error in the current regulations and in HUD's PIC system which incorrectly reduces the rent of some mixed-families below their TTP. A mixed family is a family whose members include those with citizenship or eligible immigration status *and* those without citizenship or eligible immigration status.

Under this rule, PHAs must complete the following steps:

- Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."
- Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members"). The product of this calculation is the "eligible subsidy."
- Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

When the mixed family's TTP is greater than the maximum rent, the PHA must use the TTP as the mixed family TTP. . Note: A warning message will appear when the family's TTP is entered into field 10p of PIC. This warning message is a workaround for purposes of implementing this provision.

This method of prorating assistance applies to new admissions and annual reexaminations after the effective date of the regulation.

The following tables provide examples of the impact of this provision.

Example 1: Family of 4 with an annual income of \$20,000, and one family member that is not eligible to receive subsidy. The 95th percentile TTP is \$548 while the flat rent is \$600. The applicable utility allowance is \$100 per month.

Steps	Previous Requirements	Requirements in Streamlining Rule
Step 1: Determination of TTP	\$500	\$500
Step 2: Determination of Maximum Rent	95 th percentile of all TTPs paid in the public housing program	Applicable flat rent
Step 3: Determination of Family Maximum Subsidy	$\$548 - \$500 = \$48$	$\$600 - \$500 = \$100$
Step 4: Determination of Member Maximum Subsidy	$\$48 \div 4 = \12	$\$100 \div 4 = \25
Step 5: Determination of Eligible Subsidy	$3 * \$12 = \36	$3 * \$25 = \75
Step 6: Determination of Mixed-Family TTP	$\$548 - \$36 = \$512$	$\$600 - \$75 = \$525$
Step 7: Determination of Mixed-Family Rent	$\$512 - \$100 = \$412$	$\$525 - \$100 = \$425$

Example 2: Family of 4 with an annual income of \$20,000 and one family member that is not eligible to receive subsidy. The 95th percentile rent is \$400 and the flat rent is \$480. The applicable utility allowance is \$100 per month.

Steps	Previous Requirements	Requirements in Streamlining Rule
Step 1: Determination of TTP	\$500	\$500
Step 2: Determination of Maximum Rent	95 th percentile of all TTPs paid in the public housing program	Applicable flat rent
Step 3: Determination of Family Maximum Subsidy	$\$400 - \$500 = (\$100)$	$\$480 - \$500 = (\$20)$
Step 4: Determination of	$(\$100) \div 4 = (\$25)$	$(\$20) \div 4 = (\$5)$

Member Maximum Subsidy		
Step 5: Determination of Eligible Subsidy	$3 * (\$25) = (\$75)$	$3 * (\$5) = (\$15)$
Step 6: Determination of Mixed-Family TTP	$\$400 - (\$75) = \$475$	$\$480 - (\$15) = \$495$ Because the maximum rent is less than the family TTP, a PHA must use this family's TTP (\$500) for the Mixed-Family TTP.
Step 7: Determination of Mixed-Family Rent	$\$475 - \$100 = \$375$	$\$500 - \$100 = \$400$

Background: PHAs are required to calculate rent for mixed-families differently than they calculate rent for non-mixed families. For information on mixed families in public housing, please see the public housing occupancy guidebook.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016

Attachment I: Tenant self-certification for Community Service and Self-Sufficiency Requirement

Regulation: 24 CFR §§960.605, 960.607

Program to which this provision applies: Public housing

Description of change: HUD will provide guidance on this provision in a separate notice.

Background: All public housing residents that are not otherwise exempt are required to complete 8 hours of community service or participation in self-sufficiency activities per month. For more information on the administration of CSSR, please see the public housing occupancy guidebook.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

Attachment J: Public housing grievance procedures

Regulation: 24 CFR §§966.52 through 966.57

Program to which this provision applies: Public housing

Description of change: This provision eliminates many prescriptive requirements related to the process for obtaining a hearing and the procedures governing the hearing, and permits PHAs to establish local requirements regarding the process for obtaining a grievance hearing. This provision does not prevent a PHA from maintaining the current procedures in place immediately before this final rule. Rather, it eliminates many prescriptive requirements that are not statutory. Specifically, this provision:

- Redefines a hearing officer to include a single hearing officer or a panel of hearing officers;
- Eliminates specific procedures that a complainant must undertake to obtain a hearing;
- Eliminates the requirements related to how a PHA may choose a hearing officer, including the requirement to consult with residents about the PHA choice for the hearing officer;
- Requires PHAs to incorporate policies for selecting a hearing officer in the dwelling lease and to revise the lease accordingly;
- Eliminates the provision that outlines the consequences to a complainant for failure to properly request a hearing;
- Eliminates the requirements regarding how a grievance must be submitted in the informal settlement process;
- Eliminates a provision that would require an escrow deposit by the complainant in any grievance related to tenant rent;
- Eliminates a requirement that a hearing will be scheduled only after a complainant has adequately requested a hearing, completed an informal settlement process, and paid rent due into escrow if necessary;
- Eliminates the requirement that a hearing be conducted informally;
- Requires that a written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official;
- Eliminates the requirement that a PHA must make available for inspection a previous hearing officer decision for prospective complainants;
- Requires PHAs to create a log of hearing officer decisions and make the log available to the hearing officer, prospective complainants and his representative. At a minimum, the log must include: the date of the hearing decision, the general reason for the grievance hearing (failure

to pay rent, community service and self-sufficiency noncompliance, etc.) and whether the decision was in the favor of the complainant or the PHA.

Background: Public housing grievance procedures ensure adequate due process regarding adverse actions against public housing tenants. For information about grievance procedures beyond what is addressed in this Notice, please see the public housing occupancy guidebook.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

Attachment K: Biennial inspections and the use of alternative inspection methods and inspection timeframes

Regulation: 24 CFR §§982.405, 983.103

Programs to which this provision applies: Housing Choice Voucher (including the project-based voucher program)

Description of change: This provision offers PHAs the discretion to conduct unit inspections biennially rather than annually, for both the HCV and PBV programs. It also authorizes the use of alternative inspection methods for periodic inspections, such as inspections performed by HUD or conducted pursuant to the HOME Investment Partnerships (HOME) program or housing financed using Low-Income Housing Tax Credits (LIHTCs). PHAs have the discretion to adopt either or both of these flexibilities.

These flexibilities are applicable only to periodic unit inspections conducted during the term of the assisted tenancy. Periodic inspections are those that a PHA is required to conduct at least biennially, while a HCV participant is living in a unit. Periodic inspections do not include inspections conducted prior to the initial term of the lease or to interim inspections. Under the PBV program, the flexibilities do not apply to inspections required prior to the execution of the HAP contract pursuant to 24 CFR §983.103(a) and (b).

Note that under the homeownership option, PHAs are required only to conduct pre-contract inspections; they have the *option* of conducting periodic inspections. If a PHA conducts periodic inspections, then it may do so biennially and/or by means of alternative methods, pursuant to the requirements detailed in this Notice (e.g., update of Admin. Plan, etc.).

Biennial inspections. This provision authorizes PHAs to conduct unit inspections every other year instead of annually. Permitting biennial inspections for HCV units will reduce the administrative and financial burden on PHAs and high-performing landlords and enable PHAs to concentrate their inspection resources on the more marginal and higher-risk units. Additionally, this provision can assist PHAs in avoiding duplicative inspections at properties where there are other program inspections, such as under the LIHTC program.

A PHA that moves to biennial inspections for all of the units in its portfolio does not need to update its Admin. Plan to reflect the change. By contrast, a PHA that continues to perform inspections annually across its portfolio must update its Admin. Plan; this is the case because the new requirement is that inspections take place at least biennially, and the PHA is exercising the discretion to continue with annual inspections. Likewise, a PHA that employs both annual and biennial inspections must adopt policies in its Admin. Plan that specify the circumstances under which biennial inspections will be employed and the circumstances under which annual inspections will be employed. These policies must be applied uniformly. For example, a PHA might move to biennial inspections for units in properties that are already inspected annually under a local housing code enforcement program or any unit that receives a “pass” score under HQS for two or more years in a row. A PHA might continue with annual inspections of any units not inspected annually under another program or any unit that had health and safety deficiencies during its previous HQS inspection.

While this provision is intended to offer administrative relief to PHAs, it is not intended to do so at the expense of decent, safe, and sanitary housing. PHAs are discouraged from establishing policies that specify the use of biennial inspections based on factors unrelated to an owner's record of providing housing that is decent, safe, and sanitary, such as the distance of the unit from the PHA's office. While factors such as distance may be taken into account, HUD encourages PHAs to consider factors other than distance — such as the record of the unit itself — in deciding whether to employ biennial inspections.

PHAs should continue to submit the Form HUD-50058 into the Public Housing Information System (PIC) as currently required. The SEMAP module has been modified to accept inspection dates of greater than 12 months since last inspection. Inspection dates submitted into PIC will now be counted as late if they show a time of greater than 26 months since the previous inspection.

Alternative inspection methods. The purpose of this provision is to authorize inspection by methods other than HQS. Inspection by such alternative methods is limited, as described below.

PHAs may rely upon two different categories of alternative inspections: (1) inspections conducted by HUD's Real Estate Assessment Center (REAC) or under the HOME or LIHTC program; or (2) other inspection methods that meet or exceed HQS and have been approved by HUD's Real Estate Assessment Center. No matter which option a PHA selects, it must amend its Admin. Plan prior to employing such option.

- REAC/HOME/LIHTC inspections. Inspections covered by REAC, HOME, and LIHTC employ unit sampling. The regulation requires HCV and PBV units be included in the universe of units forming the basis of the sample. For example, if a 100-unit property includes 20 units that are occupied by HCV-assisted families or are under a PBV HAP contract, then those 20 units must be included in the universe of units from which the sample is pulled. This requirement does not mean that the 20 units must be included in the actual sample; it means only that the units must have the potential to be selected for the sample by virtue of being included in the universe of sampled units.
- Other inspection methods. In order to rely on inspections other than those covered by REAC, HOME, or LIHTC, a PHA must submit to HUD the inspection method and an analysis showing that the method meets or exceeds HQS. A PHA may not rely upon such a method unless and until HUD has reviewed and approved use of the method. Once HUD has approved the inspection method, then the PHA must amend its Admin. Plan, making clear the specific properties or types of properties for which the inspection method will be employed. If the inspection method relies upon sampling, then the HCV/PBV units must be included in the population of units forming the basis of the sample, as described above.

HUD will not approve a method that fails to assess the performance requirements and acceptability criteria of unit inspection standards outlined at 24 CFR §982.401, or any successor standard. As with HQS, HUD may approve variations to alternate inspection methods only for the purposes outlined at 24 CFR §982.401(a)(4)(ii), and then only if the variations meet the standard for approval at 24 CFR §982.401(a)(4)(iii). If a method fails to meet these requirements, then HUD will not approve its use.

Mixed-finance properties and triennial inspections. For purposes of this provision, a mixed-finance property is defined as a property that is assisted under the PBV program and is financed under a federal, state, and/or local housing program. A PHA may rely on an inspection of a mixed-finance property conducted using an alternative inspection method to meet the requirement at 24 CFR 982.405(a), if the inspection happens no less frequently than triennially.

As with all other inspection reports required under § 982.158(f)(4), reports for alternative inspection methods must be obtained by the PHA from the entity inspecting the units. Such reports must be available for HUD inspection for at least three years from the date of the latest inspection.

PHAs must receive inspection reports and other data from any entity conducting an inspection using an alternative method within 5 business days of the inspection. Prompt analysis of inspection results enable a PHA to determine if any identified deficiencies would result in HQS failure. Memorandums of understanding or other agreements could be used by the PHA and other entity to ensure timely data submission.

PHAs that use inspections conducted with alternative methods, including methods that employ sampling, must continue to submit the Form HUD-50058 into the PIC system in the same manner, which includes providing the date of last inspection, and the date the unit last passed inspection. For methods that employ sampling, the date of the inspection will be used for all units in the universe, even if those units were not selected for inspection. The SEMAP system has been modified to accept inspection dates of greater than 12 months since last inspection. Inspection dates submitted into PIC will now be counted as late if they show a time of greater than 26 months since last inspection.

Limitations on the use of alternative inspection methods. A PHA may rely upon an alternative inspection method to demonstrate compliance with the inspection requirement of 24 CFR 982.405(a) in two circumstances:

- In the case of an alternative method that employs a “pass/fail” scoring system, the property inspected pursuant to such alternative method receives a “pass” score. A PHA may rely on an alternative method if the property receives a “pass” score, even if deficiencies are identified.
- In the case of an alternative method that results in a list of deficiencies (without a “pass/fail” designation), the PHA determines that none of the cited deficiencies would have resulted in a “fail” score under HQS.

Under any circumstance in which a PHA is prohibited from relying on an alternative inspection method for a property, the PHA must promptly conduct an HQS inspection of all units occupied by voucher program participants, and follow HQS procedures to remedy any identified deficiencies, as required under the HQS inspection method.

Duty to inspect. Irrespective of the biennial/alternative inspection method provision, a PHA has a duty to inspect a unit when a participant family or government official reports a condition that violates HQS. If the condition is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with § 982.404(a)(3)), then the PHA must

inspect the unit within 24 hours of when the PHA receives the notification. If the condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA receives the notification. In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area or if a natural or manmade disaster makes inspection of a unit infeasible, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection can be made. In such circumstances, a PHA must submit a waiver request to its local HUD field office, stating the regulation from which a waiver is requested and including an explanation of why it is needed.

Background: The biennial inspections provision was put into place to enable PHAs to expend relatively fewer resources inspecting units that perform consistently well or are typically inspected by more than one oversight entity and relatively more resources inspecting other units. The alternative inspections provision is intended to address the fact that a property that has more than one funding source may be subject to more than one physical inspection using more than one method. The goal of this provision is to eliminate duplicative inspections while assuring that families with HUD assistance have access to decent, safe, and sanitary housing that is in good repair.

Mandatory or discretionary: PHAs are now authorized to inspect units at least biennially during the term of the assisted tenancy. PHAs have the *discretion*, however, to inspect units more frequently than required. PHAs also have the *discretion* to use alternative inspection methods in accordance with HUD requirements. In those cases where a PHA elects to inspect more frequently than biennially, for some or all of its units, or use an alternative inspection method, its Admin. Plan must be revised.

At any time, if a participant family or government official reports a condition that violates HQS, a PHA must inspect the subject unit within the timeframes described above.

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).

Attachment L: Housing Quality Standards reinspection fee

Regulation: 24 CFR §982.405

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher)

Description of change: This provision offers PHAs the option to establish a reasonable fee to owners for a reinspection under two circumstances: (1) if an owner notifies the PHA that a deficiency cited in the previous inspection has been repaired and a reinspection reveals that it has not and/or (2) if the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing has not been corrected.

A fee will be considered reasonable if it reflects local practices for the establishment of similar fees. PHAs may wish to inquire with local authorities regarding how such fees are established.

PHAs must not apply the fee to an owner for:

- deficiencies caused by the participant family;
- initial inspections;
- regularly scheduled inspections;
- an instance in which an inspector was unable to gain access to a unit; or
- new deficiencies identified during a reinspection. If new deficiencies are uncovered during reinspection, a PHA should follow normal procedures to address these newly identified deficiencies.

An owner who is assessed a fee may not pass the fee on to a family.

In the case of PHA-owned units, inspections and re-inspections must be performed by a HUD-approved entity in accordance with 24 CFR §982.352(b)(3) and §983.103(f)(1)). In this circumstance, and in any case in which inspections are performed by an entity other than the PHA (e.g., unit of local government, contractor), the details of any reinspection fee must be spelled out in the contractual arrangement between the PHA and the entity. (Notice PIH 2015–05 addresses the inspection of PBV units and steps that must be taken in the event the independent entity discovers an HQS violation.)

Fees collected under this reinspection fee authority will be considered unrestricted net assets.

Background: It is burdensome and costly for PHAs to have to inspect units multiple times.

Mandatory or discretionary: Discretionary. A PHA that intends to adopt a reinspection fee must amend its Admin. Plan to make clear when a fee will be assessed. For example, it must make clear whether the fee will be assessed after the first reinspection or after the second reinspection.

The Admin. Plan must also make clear, in each circumstance, what the specific fee amount will be.

In determining whether to adopt a fee, a PHA must ensure that such a fee is not prohibited by state or local law. PHAs are encouraged to consider whether the adoption of a fee may deter landlords from participating in the HCV or PBV programs. For example, if the allotted time for repairs has elapsed and a reinspection reveals that a deficiency cited in the previous inspection that the owner is responsible for repairing has not been corrected, a PHA is already required to take remedial action and will have to decide whether to assess a fee, as well, in accordance with their Admin. Plan.

Effective date: April 7, 2016

Attachment M: Exception payment standards for providing reasonable accommodations

Regulation: 24 CFR §§982.503, 982.505

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision authorizes a PHA to approve a payment standard of not more than 120 percent of the FMR without HUD approval if requested as a reasonable accommodation by a family that includes a person with a disability.

A PHA that adopts this provision must maintain documentation that shows:

- a rent reasonableness analysis was conducted in accordance with the HCV program regulations at 24 CFR 982.507;
- the family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation; and
- the unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services, or recreation.

A PHA may accept a verbal request for a reasonable accommodation from a family. PHAs are advised to make clear in their Admin. Plan whether the request must be in writing and/or include supporting documentation, for example from a medical professional.

Background: Under the preceding regulations, a PHA had to request a waiver from a HUD Field Office for an exception payment standard above 110 percent of the FMR, consuming considerable administrative time and resulting in delays that, in some cases, caused families to miss out on desired units. Under this provision, a PHA may approve a payment standard of not more than 120 percent of the FMR without HUD approval if required as a reasonable accommodation for a family that includes a person with disabilities.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

Attachment N: Family income and composition: regular and interim examinations

Regulation: 24 CFR §§982.516(c) through (e)

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision eliminates the requirement that a voucher agency conduct a reexamination of income whenever a new family member is added. The provision does *not* eliminate the requirement to verify other aspects of program eligibility (e.g., SSNs, criminal history, etc.), nor does it eliminate the requirement to perform annual reexaminations of family income (for example, if that happens to be the point at which a new family member is added); it simply eliminates the requirement to perform an interim reexamination of income whenever a new family member is added.

A PHA that adopts this provision must make clear in its Administrative Plan how it will address the addition of a new family member under the age of 6 years, in the event the new family member is added at a time other than during a reexamination. Per 24 CFR §5.216(e)(2)(ii)(B), such a family member is to be counted as a member of the assisted household, meaning that the family becomes entitled to the dependent deduction. A PHA that adopts this provision may decide, for example, to require a full reexamination of income whenever a child under the age of 6 years is added to a family. The PHA's policy on the addition of such family members must be spelled out in its Administrative Plan.

Background: This change makes it possible for a PHA, if it so chooses, to align interim examination requirements across the public housing and Housing Choice Voucher programs.

Mandatory or discretionary: Discretionary. PHAs retain the discretion to perform interim reexaminations when a new family member is added. An agency's ACOP for public housing and HCV Admin. Plan must describe the regular and interim examination policies.

Effective date: April 7, 2016

Attachment O: Utility payment schedules

Regulation: 24 CFR §982.517

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision requires PHAs to use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under the PHA subsidy standards.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. To ensure compliance with this provision, PHAs may employ ad hoc reports that are available through the Inventory Management System/Public and Indian Housing Information Center, as explained in Notice PIH 2014–25 (“Over Subsidization in the Housing Choice Voucher Program”).

Background: This provision was enacted as a cost-saving measure.

Mandatory or discretionary: Mandatory

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).



U.S. Department of Housing and Urban Development Public and Indian Housing

Special Attention of:
Directors of HUD Regional and Field
Offices of Public Housing; PIH Program Center
Coordinators; Public Housing Agencies (PHAs)
Administering Housing Choice Voucher Programs

Notice PIH 2016 – 09 (HA)
Issued: June 06, 2016
Expires: This Notice remains effective until
amended, superseded, or rescinded

Cross References:

HUD PIH Notices: 2015-6; 2012-42;
2012-4; 2011-65; 2011-3; 2008-43;
2007-5; 2004-12

**Subject: Housing Choice Voucher (HCV) Family Moves with Continued Assistance,
Family Briefing, and Voucher Term’s Suspension.**

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1. Purpose. This notice updates previous guidance relating to family moves with continued assistance and incorporates other related changes resulting from publication of the rule “Housing Choice Voucher Program: Streamlining the Portability Process” (hereafter portability rule) (80 FR 50564, published in the Federal Register on August 20, 2015). On September 2, 2015, a technical correction to the portability rule was published in the Federal Register. The technical correction (80 FR 52619) incorporates two provisions that were addressed in the preamble but were inadvertently omitted from the regulatory text. The two provisions include the requirement to provide as part of both the oral briefing and the information packet: (1) an explanation of the advantages of areas with low concentrations of low income families and (2) any information on selecting a unit that HUD makes available. You may find a side-by-side comparison of previous and new regulatory requirements here: <http://portal.hud.gov/hudportal/documents/huddoc?id=Comparportrulechanges.pdf>.

Specifically, this notice provides guidance on PHA administrative responsibilities related to family moves with continued assistance both inside and outside the PHA’s jurisdiction. Additionally, this notice provides guidance on family briefings (24 CFR § 982.301) and suspension of the voucher term (24 CFR § 982.303).

PHAs are reminded that documentation demonstrating compliance with the requirements of this notice and regulation must be kept on file. HUD may request this documentation at any time.

2. Background. One of the key features of the HCV program is the mobility of the assistance. Regulations at 24 CFR § 982.353 provide that HCV participants may choose a unit that meets program requirements anywhere in the United States, provided that a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. Moves with continued assistance can occur both inside and outside of the PHA’s jurisdiction. The term “portability” refers to the process of leasing a dwelling unit¹ with tenant-

¹ The term portability also refers to cases where families participating in the voucher homeownership option purchase units outside of the initial PHA’s jurisdiction. See §982.636.

based HCV assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). The PHA that receives the family that has ported from the initial PHA's jurisdiction is called the receiving PHA. When a family moves under portability, the receiving PHA may choose to absorb the family into its own program or bill the initial PHA.

Program regulations covering moves with continued tenant-based assistance, where a family may move, and the responsibilities of the initial PHA and the receiving PHA are found at 24 CFR §§ 982.353 through 982.355. The following sections provide detailed guidance on the portability process and present changes made in regulation as a result of publication of the final portability rule. Regulatory changes on suspension of the term of the voucher and family briefings are also presented below.

3. Fair Housing and Equal Opportunity Requirements. PHAs must administer their HCV program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR § 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. The PHA must also affirmatively further fair housing in accordance with its certification pursuant to 24 CFR § 903.7(o). If the PHA has completed an Assessment of Fair Housing conducted in accordance with the requirements of the Affirmatively Furthering Fair Housing rule at 24 CFR §§ 5.150-5.180, the PHA must certify that it will affirmatively further fair housing in accordance with 2015 revisions to 24 CFR 903.7(o) made by the AFFH final rule at 80 FR 42272-42371 (July 16, 2015). Under the July 16, 2015 revision, the PHA's certification that it will affirmatively further fair housing requires that it will (1) take meaningful actions to further the goals identified in its AFH, (2) that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and (3) that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). If the PHA has not yet completed an Assessment of Fair Housing, the PHA must affirmatively further fair housing in accordance with its certification pursuant to 24 CFR 903.7(o) as implemented prior to July 16, 2015. *See* 24 CFR 5.151, 5.160(a)(3). Under this version of 24 CFR 903.7(o) that existed before July 16, 2015, a PHA must certify that it will affirmatively further fair housing by (1) examining

its programs or proposed programs, (2) identifying any impediments to fair housing choice within those programs, (3) addresses those impediments in a reasonable fashion in view of the resources available, (4) works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and (5) maintains records reflecting these analyses and actions, with some limited exceptions found in 24 CFR 903.2(b)(2). Affirmatively furthering fair housing under either scenario includes helping families use their vouchers to move from segregated to integrated areas, from racially or ethnically concentrated areas of poverty (R/ECAPs), and from areas with disparities in access to opportunity within its jurisdiction and through portability moves outside of the jurisdiction. See 24 CFR 982.53 for the equal opportunity requirements for the HCV program.

Questions relating to fair housing and equal opportunity requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/theodir.

a. Reasonable Accommodations. Notwithstanding any other provision of this notice, PHAs must consider requests for reasonable accommodations that are necessary for a qualified individual with a disability to benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, title II of the Americans with Disabilities Act and HUD's implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130). An individual with a disability can request a reasonable accommodation to any rules, policies, practices or services at any time. This may arise, for example, when a request to move is due to a disability of a family member. This provision applies even if a family might otherwise be restricted from moving (e.g., under a "one move per year" policy or because of insufficient funding). The reasonable accommodation determination is made on a case-by-case basis.

In cases where the limitation on portability is a discretionary policy of the PHA, the PHA must grant the accommodation unless doing so would impose an undue financial and administrative burden to the PHA. In cases where the limitation on portability is compelled by regulation, the PHA must first assess whether the requested accommodation would impose an undue financial

and administrative burden. If this assessment confirms no undue burden, the PHA must request a waiver of the regulatory provision from HUD.

In cases where a PHA determines it has insufficient funding to allow a move (provided that all of the requirements of section 7 of this notice are met) the PHA must consider a request for a reasonable accommodation, but may, where the individual facts warrant, determine that allowing the move would pose an undue financial and administrative burden to the PHA. Such determination is subject to review by the local HUD office, as well as by the HUD Office of Fair Housing and Equal Opportunity in the event a complaint is filed alleging a failure to grant a reasonable accommodation.

With respect to voucher extensions of time, both receiving and initial PHAs should consider that individuals with disabilities and families that include a member with a disability may require additional time to locate a suitable unit. Such households may also request an extension of time as a reasonable accommodation. Reasonable accommodation requests could also be made in the following areas: requesting that specific receiving PHA policies are provided to the family under the explanation of how portability works, requesting additional details about a receiving PHA when selecting the receiving PHA, and requesting a larger unit size.

b. Limited English Proficiency (LEP) and Effective Communication with Individuals with Disabilities. In communications and making written information available to families (including Appendix B below), PHAs must ensure that such information is available in appropriate languages to ensure access for persons with LEP. See HUD's LEP guidance at http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf. For further information regarding LEP requirements, see www.lep.gov.

PHAs must also ensure that communications and materials are provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and their implementing regulations. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in

appropriate accessible formats as needed, *e.g.*, Braille, audio, large type, assistive listening devices, and sign language interpreters. See Section 504 requirements regarding effective communication requirements for persons with disabilities in 24 CFR 8.6 and ADA Title II requirements at 28 CFR Part 35, Subpart D. In addition, for more information regarding effective communication requirements under the ADA, which are similar to the requirements under Section 504, see the U.S. Department of Justice's Effective Communication guidance at <http://www.ada.gov/effective-comm.htm>.

4. Family Briefing. When a family is first selected to participate in the HCV program, regulations require that the PHA give the family an oral briefing and an information packet, which include information on a specific set of subjects listed in regulation. The following paragraphs focus only on changes to the required contents of family briefings resulting from publication of the final portability rule. The full list of required oral briefing subjects can be found at 24 CFR § 982.301(a), and the full list of required briefing packet subjects at 24 CFR § 982.301(b). PHAs must make any necessary revisions to their current materials and to the delivery of the oral briefing to comply with the changes described below.

a. How Portability Works. Regulations require that an explanation of how portability works is provided as part of both the oral briefing and the briefing packet to all families, not just to those families who are eligible to move under portability. Also, PHAs must explain to families who elect to move under portability how differences in the receiving PHA policies may affect the family's assistance through screening criteria, subsidy standards, payment standards and any other elements of the portability process which may affect the family's assistance. For example, the receiving PHA might have more stringent policies related to screening for criminal backgrounds which may impact the family's assistance.

PHAs are generally not required to research and provide families with specific receiving PHA policies. Instead, the requirement is for initial PHAs to make the family aware that the receiving PHA's policies may be different and how that may impact the family's assistance.

See Appendix B for a sample “how portability works” handout. This is meant to serve as a tool that may be used by PHAs in meeting this requirement. PHAs are not required to use Appendix B.

b. Advantages of Moving to Areas with Low Concentrations of Low Income Families.

HCV regulations now require that an explanation of the advantages of moving to an area that does not have a high concentration of low income families be provided to all families, not just to families currently living in high-poverty census tracts. This explanation is to be provided as part of the oral briefing and the information packet. PHAs no longer need to identify whether a family lives in a high-poverty census. For purposes of this section, PHAs may follow HUD’s definition of Concentrated Areas of Poverty under the AFFH Tables and Mapping Tool (see section 4.e below for the definition).

PHAs may use research that shows positive outcomes on voucher families who move to low-poverty areas, to prepare materials and in delivering information on the advantages of moving to areas with low concentration of low income families. For example, research has shown that moving to areas of low-poverty concentration has strong positive physical and mental health effects. Research has also shown that those families who lived in low-poverty neighborhoods for a longer period had an increased likelihood of finding employment and having higher incomes, and their children also had higher scores in school and were more likely to enroll in college.

The following research papers/reports include some of the resources available to PHAs:

- (1) *“The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates”* (Raj Chetty and Nathaniel Hendren, 2015) and *“The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment”* (Raj Chetty, Nathaniel Hendren, and Lawrence Katz, 2015): these studies show how neighborhoods affect upward mobility of low-income children and find that every year of exposure to a better environment improves a child’s chances of success. <http://www.equality-of-opportunity.org/index.php/executive-summaries>.
- (2) *“Benefits of Living in High-Opportunity Neighborhoods”* (Urban Institute, 2012): this brief analyzes and discusses findings from HUD’s Moving to Opportunity (MTO)

demonstration. <http://www.urban.org/research/publication/benefits-living-high-opportunity-neighborhoods>.

(3) *HUD's MTO demonstration*: tested the long-term benefits of helping poor families move from severely distressed housing projects to low-poverty neighborhoods.

http://www.huduser.org/publications/pdf/MTOFHD_fullreport_v2.pdf.

c. Information on Selecting a Unit. Regulations require that any information that HUD makes available on how to select a unit is provided as part of the oral briefing and the briefing packet. Besides the HUD brochure “A Good Place to Live” there is currently no other HUD provided information on this topic. HUD will notify PHAs if such information is made available in the future.

d. Voucher Term. In previous regulation, the PHA was required to explain (as part of the briefing packet) the term of the voucher, and the PHA’s policies on extension or suspension of the voucher term. The PHA is still required to include information in the briefing packet about the term of the voucher, extensions, and voucher suspension. However, the information on voucher suspension must no longer be presented as a PHA policy because current regulation mandates voucher suspension. Instead, the briefing packet must be revised to explain how voucher suspension works under current regulation.

e. List of Landlords or Other Resources. Regulations require that a list of landlords known to the PHA who may be willing to lease a unit to the family, or other resources known to the PHA that may assist a family in locating a unit, is provided to families as part of the briefing packet. Generally, this list may include only resources, or only landlords, or both.

PHAs whose jurisdiction includes areas of poverty or minority concentration must ensure that the list covers areas outside of poverty or minority concentration. To meet this requirement, PHAs must do the following:

- (1) Conduct outreach to landlords within the PHA’s jurisdiction with properties outside areas of minority or poverty concentration, so as to develop relationships with such landlords,

market the advantages of participating in the HCV program (e.g., the PHA guarantees a portion of the rent), and increase their interest in participating in the program.

- (2) Include resources that will assist voucher holders in finding units outside areas of minority or poverty concentration, as part of the list. A list of resources is below.

Consistent with their obligations to affirmatively further fair housing, PHAs are expected to ensure that the list also covers areas outside of R/ECAPs, integrated areas, and areas providing access to opportunity. PHAs may conduct the activities described above in taking steps to ensure that the list covers these areas.

Data/Mapping Tools: PHAs have two options for determining whether an area is a poverty or minority concentrated area:

- (1) HUD's Data and Mapping Tool provides maps and tables at the jurisdictional (CDBG, HOME, and ESG jurisdictions) and regional level. PHAs can select the CDBG jurisdiction(s) that best approximates the PHA's jurisdiction for the HCV program and produce maps that show where HCV participants are living and how that relates to poverty or minority concentration in the community, R/ECAPs, the location of other assisted housing, segregated and integrated areas, and access to proficient schools, jobs, and transportation. The maps show the census tracts boundaries within a given jurisdiction and highlights those census tracts within a jurisdiction or region that are R/ECAPs. PHAs may overlay neighborhood maps of their jurisdictions to see how the tract boundaries overlap with neighborhoods in the community. HUD's AFFH Data and Mapping Tool and User Guide can be found on HUD's website at the following address: <https://www.hudexchange.info/resource/4867/affh-data-and-mapping-tool/>.
- (2) The Federal Financial Institutions Examination Council's (FFIEC) Geocoding/Mapping System (<https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx>) provides information for specific addresses on MSA median family income, census tract median family income, tract percentage below the poverty line, tract minority population, tract minority percentage, and related topics.

Definition of R/ECAPs: HUD's AFFH Data and Mapping Tool defines R/ECAPs as²:

- (1) Tracts with a non-white population of 50% or more (20% or more for non-metro areas), and
- (2) Tracts with a poverty rate of more than 40% or at least 3 times the average tract poverty rate for the metropolitan/micropolitan area, whichever is lower.

Resources: Resources that may assist voucher holders in finding units outside areas of minority or poverty concentration include, but are not limited to:

- (1) Information on how to use Zillow, Craigslist, and other search tools used by mainstream renters.
- (2) Mobility counseling resources, either managed by the PHA or by another organization such as a HUD-assisted housing counseling agency. A list of HUD approved housing counseling agencies, searchable by whether they provide mobility and relocation counseling, can be found at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>.

These same resources may also be used to assist voucher holders in finding units outside R/ECAPs, segregated areas, and areas with disparities in access to opportunity.

Questions about which areas the list must cover to meet fair housing requirements should be addressed to your local HUD fair housing office. You may find HUD's Office of Fair Housing and Equal Opportunity directory at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/theodir.

² More information can be found at the following address:

https://www.huduser.gov/portal/sites/default/files/docs/AFFH_Data_Documentation_12_31_2015.docx.

5. Suspension of the Term of the Voucher. During the initial or extended term of the voucher, the family is required to submit a Request for Tenancy Approval (Form HUD-52517). The term of the voucher is suspended starting when the Request for Tenancy Approval is submitted to the PHA until the PHA notifies the family in writing whether the assisted tenancy has been approved or denied. This provision applies to all families who are leasing a unit (not just to families under portability). Suspension applies even if a family that submits a Request for Tenancy Approval decides to cancel such request. In such cases, the suspension ends when the PHA learns of the cancellation. Under portability procedures, the requirement to suspend the term of the voucher applies to the receiving PHA only. See section 14.b below for more information on the impact of suspension on the initial billing deadline.

6. Denying Family Requests to Move. This section outlines the process for denying a family's request to move, including when the PHA may deny a family's request to move, when the PHA must deny the family's request to move, and Violence Against Women Act (VAWA) requirements. See section 7 below for additional details on denying families' request to move due to insufficient funding.

a. Mandatory Denial of a Family Request to Move. PHAs must deny the move for applicants who are not income eligible in the receiving PHA's jurisdiction. Moves must also be denied for families that have moved out of their assisted unit in violation of the lease. See Section 6.c below for exceptions under VAWA.

b. Discretionary Denial of a Family Request to Move. PHAs may deny a family's request to move under the following program regulations:

- (1) The family's action or failure to act as described in 24 CFR § 982.552 or 982.553.
- (2) The request to move does not comply with the PHA's policies on the timing and frequency of moves in accordance with 24 CFR § 982.354(c)(2). These policies include prohibiting any move by the family within the initial lease term and prohibiting more than one move by the family during any one-year period. A PHA must not establish a

policy that restricts families from moving only at the time of their annual reexamination. These policies must be consistent with applicable civil rights laws and regulations. See section 3 above.

- (3) The PHA has insufficient funding for continued assistance in accordance with 24 CFR § 982.354(e)(1). See section 7 below for more information.
- (4) The family is a non-resident applicant and is requesting to port. Nonresident applicants have no right to move under portability for 12 months from the time the family is admitted to the HCV program. See 24 CFR § 982.353(c) for the definition of non-resident applicant and other provisions. Initial PHAs may allow the move before the end of this 12 month period.

c. Violence Against Women Act (VAWA). As previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is, or has been, the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit. The final rule, HUD Programs, VAWA Conforming Amendments, was published in the *Federal Register* on October 27, 2010. The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) expanded protections to victims of sexual assault. More information on these expanded protections can be found in the “VAWA 2013: Overview of Applicability to HUD Programs” Federal Register Notice, 78 FR 47717, August 6, 2013.

If the circumstances described above exist, the PHA may allow a family to move if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family (victim) document or provide written evidence to demonstrate that the violence occurred.

The family has the option of either submitting the HUD-approved certification form (Form HUD-50066³) OR third-party documentation, such as:

- (1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
- (2) Documentation signed by the victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 CFR part 5, subpart L.

7. Denying Family Requests to Move - Insufficient Funding. This section outlines when PHAs may deny moves due to insufficient funding, and describes the steps PHAs must take to deny moves for this reason, including notifying the local PIH field office, establishing policies that address denial of family moves due to insufficient funding, and consequences for improper denial of requests to move due to insufficient funding. This section also provides guidance for how PHAs determine and document the determination of insufficient funding.

If a PHA approves a family's request to move and then subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family would be allowed to remain in its current unit. If the family cannot remain in the unit (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) the PHA must not rescind the voucher. The family must be allowed to lease a new unit. This requirement applies to moves within the PHA's jurisdiction and to portability moves.

³ Note that Form HUD-50066 is subject to change as a result of publication of the VAWA 2013 Final Rule.

An initial PHA may not terminate a portability voucher under a billing arrangement with a receiving PHA for insufficient funding because the initial PHA is not a party to the HAP contract. Initial PHAs may not impose a cap on the amount of HAP they will pay for a family that has moved under portability.

a. When a PHA May Deny a Move Due to Insufficient Funding. A PHA may only deny a request to move due to insufficient funding if all of the following applies:

- (1) The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves). See definitions below.
- (2) The receiving PHA is **not** absorbing the voucher (applicable only to portability moves).
- (3) The PHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

Higher cost unit: is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit. A PHA **may not** deny requests to move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family.

Higher cost area: is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA (e.g. the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). A PHA **may not** deny requests to move due to insufficient funding if the area the family has selected is not a higher cost area.

A PHA may not deny a family request to move under portability if the receiving PHA has confirmed that they will absorb the family into their program. In such cases, the initial PHA has no grounds to deny the portability move under 24 CFR § 982.354(e)(1).

The PHA **must not** deny the move for families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g. the unit failed

HQS, the owner failed to renew the lease, etc.). If the family is moving under portability, the PHA may deny the move under these circumstances if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.

A PHA may not deny a family's request to move due to insufficient funding because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available to do so. If the PHA denies a family's request to move, it may not subsequently admit families from its waiting list to its HCV program until families with open requests to move (based on PHA policy) are processed. See section 7.d below for more information on PHA policies addressing denial of family moves for insufficient funding.

b. Notifying the Local PIH Field Office. The PHA is required by regulation to provide written notification to the local PIH field office within 10 business days of the date on which the PHA determines it is necessary to deny family moves due to insufficient funding. Only one notification per calendar year is required and it must include the following:

- (1) A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. See section 7.c below for more information.
- (2) A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves is in place.
- (3) A copy of the PHA's policy stating how the PHA will address families who have been denied moves. The requirements of the policy are described in section 7.d below.

PHAs do not need prior HUD approval to deny a family move for insufficient funding, subject to section 7.e below.

c. Determining Whether There Is Sufficient Funding. In projecting whether there is sufficient funding available for the remainder of the calendar year, PHAs may make reasonable estimates to factor in conditions such as pending rent increases that would affect the subsidy and the attrition rate for families leaving the program. PHAs **may not** include projected costs for vouchers issued to families from the waiting list but not yet leased as part of this analysis. Vouchers issued to those on the waiting list cannot be considered an expense for purposes of

determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. The initial PHA may consider any reported changes in the family's income or composition that may result in a decreased subsidy amount.

A two-year forecasting tool is available on HUD's website at the following address: <http://www.hud.gov/offices/pih/programs/hcv>. This tool is designed to assist PHAs in determining if sufficient funding is available to support a move and is helpful in demonstrating the PHA's determination that sufficient funding is not available. PHAs are not required to use this tool and may choose to use other tools of their own.

d. PHA Policies Addressing Denial of Family Moves For Insufficient Funding. The PHA must establish policies in its Administrative Plan that state how the PHA will address families whose request to move are denied due to insufficient funding once the PHA determines funds are available for those moves. At a minimum, the PHA policy must address:

- (1) How the PHA will inform families of the PHA's local policy regarding moves denied due to insufficient funding (e.g. information contained in briefing packets or in a letter to the tenant at the time the move is denied).
- (2) How long the family's request to move will be open for consideration.
- (3) How the PHA will notify families with open requests when funds become available (which should be no later than January 1st of the following calendar year).

e. Improper Denial of Requests to Move. If HUD determines that the PHA lacks grounds to deny moves due to insufficient funding, the PHA must immediately inform any affected family and immediately process the family's request to move, regardless of PHA policies as described in section 7.d above. HUD may impose sanctions on PHAs that improperly deny a family's request to move due to insufficient funding. Such sanctions may include a reduction of the PHA's administrative fee of up to 10 percent for the two quarters following the quarter that HUD identified the improper denial. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees

during this period). HUD will consider the circumstances of the particular case in making this determination. Should HUD determine to apply such sanction, the PIH field office with jurisdiction over the PHA will inform the PHA by letter and will send a copy to HUD's HCV FMC and HCV FMD to implement the administrative fee reduction. The general policy described in the preceding paragraph in no way restricts HUD from exercising additional remedial actions or imposing sanctions for PHAs that have improperly denied families' request to move due to insufficient funding.

8. Portability – Use of Email or Other Delivery Confirmation Method. Regulations require the use of email or other delivery confirmation methods for communications between the initial and receiving PHA. HUD supports email as the preferred method of communication. This requirement applies to all communications between receiving and initial PHAs referenced in this notice. PHAs are encouraged to establish a generic portability email, and controls for the management of such mailbox, to avoid misplacement of portability emails due to staffing changes at the PHA.

An initial PHA must have a signed and valid HUD-9886 "Authorization for the Release of Information Privacy Act" on file before transmission of income verification information obtained through the Enterprise Income Verification (EIV) system. See PIH Notice 2012-4 "Effective Use of the EIV System" for more information. Also see PIH Notice 2015-6 "Privacy Protection Guidance for Third Parties" for information on requirements for transmittal of Personally Identifiable Information (PII) via email.

9. Portability - Initial PHA Processing Responsibilities. This section outlines the responsibilities of initial PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA's responsibilities, is found in sections 11-14 of this notice.

a. Determining HCV Program Eligibility of Applicant Families that are Requesting to Port. The initial PHA determines if the family is eligible for participation in the HCV program,

including whether the family is income eligible in the area to which the family wishes to move. The initial PHA determines HCV program eligibility **only** if the family is an applicant family (the family is not currently an HCV program participant).⁴ If the family meets all HCV eligibility criteria but is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to that area with continued HCV assistance. But the family may lease a unit in the initial PHA's jurisdiction if the family is HCV eligible (including income eligible) in the initial PHA's jurisdiction.

The receiving PHA's income limits are used in determining income eligibility. Initial PHA policies applicable to determination of family eligibility are used for all other eligibility criteria. See 24 CFR § 982.201 for more information on eligibility criteria for the HCV program.

b. Determining Eligibility to Move. Once a family informs the initial PHA of their desire to move under portability and where they want to move to, the initial PHA determines the family's eligibility to move. A family's eligibility to move is determined in accordance with 24 CFR § 982.353 and 24 CFR § 982.354. See sections 15 and 16 below for more information on denying family moves.

c. Selecting the Receiving PHA. If more than one PHA administers a voucher program in the area to which the family is moving, the family selects the receiving PHA. The initial PHA must provide the family with the contact information for all of the receiving PHAs that serve the area. The initial PHA may, but is not required to, provide more details about the receiving PHAs (such as whether the receiving PHA administers an FSS or a homeownership program).

⁴ The family becomes an HCV participant on the effective date of the first HAP contract executed by the PHA for the family. 24 CFR 982.4.

If the family requests it, the initial PHA must select the receiving PHA. If the initial PHA is selecting the receiving PHA per the family's request, the initial PHA is not required to provide the contact information for all receiving PHAs in the area.

Initial PHAs may determine whether there is more than one receiving PHA in the area to which the family wishes to move by searching in the PHA contact list on HUD's website at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts.

If the initial PHA is unable to ascertain whether there is more than one receiving PHA from this list, the initial PHA may contact a receiving PHA or the local PIH field office in the area to which the family wishes to move to gather more information.

d. Contacting the Receiving PHA. Once the receiving PHA is selected, regulations require that the initial PHA contact the receiving PHA to determine whether the receiving PHA will bill or absorb the family's voucher. It is the responsibility of the initial PHA, not the family, to contact the receiving PHA to determine whether the receiving PHA will bill or absorb. This information may be critical in determining whether the initial PHA approves or denies the portability request. See sections 15 and 16 below for more information on denying family moves.

e. Voucher Issuance. Once the portability request is approved, the initial PHA issues the family a voucher, if it has not already done so.

f. Advising the Family How to Contact the Receiving PHA. Once the receiving PHA has been selected and the portability request approved, the initial PHA also advises the family how to contact and request assistance from the receiving PHA. The initial PHA may do so by providing the family with the name, telephone number, and email of the receiving PHA's staff responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA. Simply referring the family to HUD or to a website for information on the receiving PHA does not fulfill the responsibilities

of the initial PHA under the program regulations. Initial PHAs may fulfill this requirement by providing this information to families during the process of selecting the receiving PHA as described in Section 9.c above.

g. Notifying the Receiving PHA. Per regulation, the initial PHA promptly notifies the receiving PHA to expect the family by contacting the receiving PHA on the family's behalf. Initial PHAs may fulfill this requirement during their initial contact with the receiving PHA to determine whether the voucher will be billed or absorbed, or as part of a separate communication with the receiving PHA.

h. Providing the Portability Information. The initial PHA must send the receiving PHA the documents listed below. Initial PHAs are encouraged to provide this information when contacting the receiving PHA to notify them that the family is approved to port to the receiving PHA jurisdiction. See Section 8 above for more information on requirements for transmittal of PII.

- (1) Form HUD-52665. The initial PHA completes and sends Part I of this form to the receiving PHA.
- (2) The most recent HUD Form-50058 (Family Report) for the family. Note that in the case of an applicant family, the initial PHA has not yet completed the HUD-50058 in its entirety because the family is not yet a new admission. See section 18 below for more information on PIC data entry and page 70 of the Form HUD-50058 Instructions Booklet for sections to be completed at the time of voucher issuance. The initial PHA must provide the partially completed HUD-50058 for the applicant family to the receiving PHA. And, income information in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.
- (3) All related verification information.
- (4) A copy of the voucher signed by the participant and the PHA.

i. Special Purpose Vouchers. The initial PHA must submit any special purpose voucher codes (i.e., HUD-VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058. Initial PHAs

are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice “*Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program.*” This FR notice can be found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-7081.pdf>. While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address:

http://portal.hud.gov/hudportal/documents/huddoc?id=fupfaqs_dec2012.pdf. And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

10. Portability - Receiving PHA Processing Responsibilities. This section outlines the responsibilities of receiving PHAs in processing a portability move. More information about the billing process, including initial and receiving PHA’s responsibilities, is found in sections 11-14 of this notice. Also, see section 11 for more information about the receiving PHA’s responsibilities after a portability family has leased a unit in its jurisdiction.

a. Requirement to Administer Assistance. The receiving PHA cannot refuse to assist an incoming family or direct them to a neighboring PHA for assistance. This includes having a policy of denying an incoming portability family if there is not a set number of days left on the initial PHA’s voucher. Receiving PHAs may not have such a policy.

Under certain circumstances, HUD may exempt a receiving PHA from the requirement to assist an incoming portability family. The receiving PHA can only refuse to assist a portability family after receiving written approval from HUD. The receiving PHA initiates requests to deny

administration of portability vouchers by sending a written request to the Director of the local PIH field office. The request must, at a minimum, address the circumstances that prevent the receiving PHA from processing incoming portability families, including any documentation supporting the request. The local HUD office, at its discretion, may request additional information deemed necessary to process the request. The local PIH field office Director will render a decision in writing to the PHA within 30 days from receipt of the PHA's request. Such requests are meant only for extreme circumstances, such as when the receiving PHA is in a presidentially declared-disaster area. Also, see the exception discussed in section 10.b below.

b. Denial or Termination of Assistance. Receiving PHAs may rescreen families who have moved into their jurisdiction under portability by applying their own policies for denial or termination of assistance under HCV regulations at 24 CFR § 982.552 or 24 CFR § 982.553. For example, the receiving PHA may have a policy to terminate or deny HCV assistance if any member of the family has been evicted from federally-assisted housing in the last 5 years. The receiving PHA may refuse to assist a portability family by referring the family back to the initial PHA, or terminate the family's HCV participation, on any of the grounds in 24 CFR § 982.552 or 24 CFR § 982.553. The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed. However, receiving PHAs may take subsequent action against the family (as explained in the preceding sentence) based on the results of the rescreening.

Receiving PHAs do not need prior HUD approval to refuse portability assistance in these cases because they are authorized under regulation to deny the move in accordance with their screening policies. This is because the regulatory meaning of both denial of assistance (applicants) and termination of assistance (participants) specifically includes refusing to process or provide assistance under the portability procedures. If the receiving PHA refuses the portability move, the initial PHA is not precluded from assisting the family either in the initial PHA jurisdiction or by allowing the family to port to another receiving PHA's jurisdiction in accordance with the portability procedures.

PHAs must ensure that any admissions or occupancy requirements they impose comply with applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR § 5.105. In using admissions or occupancy requirements that relate to the use of criminal background, PHAs must also ensure that such requirements are consistent with Notice PIH 2015-19 (Nov. 2, 2015), *Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions*, at <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

If the receiving PHA takes action against the family as described in the preceding paragraphs, the receiving PHA is required to provide the ported family with the opportunity to request an informal hearing (if the family is a participant) or an informal review (if the family is an applicant) in accordance with 24 CFR § 982.554 or 982.555. The participant/applicant status of the family is identified by the initial PHA under the Certification Statement under Part I of form HUD 52665.

c. Responding to the Initial PHA. Once the initial PHA contacts the receiving PHA to inquire whether the receiving PHA will bill or absorb, the receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry. **If the receiving PHA notifies the initial PHA that they will absorb the voucher, the receiving PHA cannot reverse its decision at a later date without the initial PHA's consent.** This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease, vacated their assisted unit, and moved to the new jurisdiction at risk of losing their assistance.

d. Expired Initial PHA Voucher. If the initial PHA's voucher has already expired when the family arrives at the receiving PHA, regulations require the receiving PHA to contact the initial PHA to determine whether it will extend the voucher term. If the initial PHA extends the voucher, the receiving PHA processes the ported family and the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline (see section 10.f below for an example of this policy). An informal hearing is not required when a voucher has expired without the family leasing

a unit. This is because regulations at 24 CFR 982.555(b) do not require an informal hearing for a PHA determination not to approve an extension of a voucher term. In determining whether to grant an extension of the voucher term, PHAs must follow their own policies as addressed in their HCV administrative plan.

e. Determining the Unit Size. The receiving PHA is required by regulation to determine the family unit size for the family, and base its determination on its own subsidy standards.

f. Voucher Issuance. After receiving the form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA's jurisdiction. HUD expects the receiving PHA to process the family's paperwork and issue the family a voucher within two weeks of receiving the HUD-52665 and supporting documentation provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

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. For example, if the initial PHA's voucher expires 10/30/2016, the receiving PHA's voucher may not expire before 11/29/2016.

If the initial PHA extends the term of the voucher as explained in section 10.d above, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher. For example, if in the example in the preceding paragraph the initial PHA extends the voucher until 11/30/2016 the receiving PHA voucher may not expire before 12/30/2016. Receiving PHAs may extend the voucher beyond this additional 30 days (see section 10.g below on voucher extensions).

The receiving PHA may delay issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures. In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be

given the opportunity for an informal review or hearing in accordance with 24 CFR § 982.554 or 982.555.

g. Voucher Extensions. The receiving PHA may subsequently extend its own voucher's term. Any extensions of search time provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. **The receiving PHA is required by regulation to inform the initial PHA of any extensions of the voucher term.**

When extending the voucher, receiving PHAs should consider the billing deadline (see section 14.b below for billing deadline information). The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a Request for Tenancy Approval, execute the HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) of the initial billing. If the initial billing is not received by the initial PHA by the deadline date, the receiving PHA will have to absorb the voucher unless the initial PHA accepts the late billing.

h. Reexaminations. Receiving PHAs may choose to conduct a new income reexamination for a participant family. In such cases, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action against the family based on the results (e.g., recalculating the HAP payment based on updated income information).

In the case of an applicant family, the receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to re-determine income eligibility. For example, if the applicant family initially reported they had no earned income but they subsequently obtain new employment, the receiving PHA shall re-determine income eligibility for the applicant family to ensure the family is income eligible in the receiving PHA's jurisdiction. As a reminder, the receiving PHA does not re-determine income eligibility for a portable family that was already receiving voucher assistance.

i. Family Decides Not to Lease in the Receiving PHA's Jurisdiction. If an incoming family ultimately decides not to lease in the jurisdiction of the receiving PHA, the receiving PHA must refer the family back to the initial PHA. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA's policies apply. Any extensions of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction

j. Notifying the Initial PHA. Regulations require the receiving PHA to 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 voucher.

k. Absorption of the Ported Voucher. The receiving PHA may absorb the family into its own program provided it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year.

Although a receiving PHA notifies the initial PHA of its intent to absorb an incoming family early in the portability process, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction. False processing of portability paperwork (sham portability moves) to address a PHA's utilization or leasing problems is prohibited. If the family does not move to a different unit and is not placed under a HAP contract in the receiving PHA's jurisdiction, the receiving PHA cannot absorb the family.

The receiving PHA may also absorb a family for which it was billing by terminating the billing arrangement with the initial PHA. In such cases, the receiving PHA must send form HUD-52665 to the initial PHA. The receiving PHA selects option 8 under Part II-B of such form. See section 16 below for more information.

11. Portability - Receiving PHA Ongoing Responsibilities. This section outlines the ongoing responsibilities of receiving PHAs once a ported family leases a unit in the receiving PHA's jurisdiction.

a. Special Purpose Vouchers. The receiving PHA must maintain any special purpose voucher codes (i.e., VASH, NED, FUPF/FUPY, NHT) on line 2n of the Form 50058 as long as it is billing for the family. Receiving PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirement, including any portability alternative requirement.

Currently, only the HUD-VASH program has alternative portability requirements, which may be found in Section G of the Federal Register (FR) Notice "*Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program.*" This FR notice can be found at the following address: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-7081.pdf>.

While no other special purpose voucher program has alternative portability requirements, portability information for the Family Unification Program (FUP) program can be found in the FUP FAQs at the following address:

http://portal.hud.gov/hudportal/documents/huddoc?id=fupfaqs_dec2012.pdf. And, there are specific portability provisions that apply to the Family Self-Sufficiency (FSS) program and the HCV Homeownership program, which can be found in regulations at 24 CFR 984.306 and 24 CFR 982.636, respectively. Additional guidance on FSS portability provisions is found in PIH Notice 2016-08.

b. Updated Form HUD-50058. The receiving PHA must send the initial PHA a copy of the 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. Receiving PHAs send the updated HUD-50058 regardless of whether there is a change in the billing amount. A copy of Form HUD-50058 must also accompany the submission of a portability form (HUD-52665) reporting any changes in the billing amount. See Section 14.e for more information.

The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days following the effective date of the reexamination. Receiving PHA's are strongly encouraged to send the updated form as soon as the family's reexamination is complete. 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.

c. Failure to Send the Updated Form HUD-50058. If the receiving PHA fails to send the updated form 50058 on time, the initial PHA must continue paying the receiving PHA based on the last Form HUD-50058 received, unless instructed otherwise by HUD. Initial PHAs should make a first attempt at resolving any late submissions of the updated form 50058 with the receiving PHA. Should such attempts fail to result in a resolution, initial 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 initial PHA may seek absorption of the vouchers in question by following the steps below. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.

- (1) The initial PHA may request absorption of the vouchers in question by memorandum to their local PIH field office Director. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached to the memorandum. A copy of the memorandum must be sent to the receiving PHA.
- (2) The local PIH field office with jurisdiction over the receiving PHA will notify the local PIH field office with jurisdiction over the initial PHA's memorandum within 15 business days of receiving the initial PHA's memorandum.
- (3) The local PIH field office with jurisdiction over the receiving PHA will provide the receiving PHA with 15 business days to respond and provide any supporting documentation if the receiving PHA is contesting the initial PHA's request.
- (4) The initial PHA's local PIH field office will send a letter to the initial and receiving PHA within 15 business days from the date the receiving PHA's response was due indicating whether the initial PHA's request was approved. A copy of the letter must be sent to the

receiving PHA's local PIH field office. Both PIH field offices will work together in making a final determination. If the two PIH field offices cannot agree on a decision, they should contact their respective regional director(s) for resolution.

- (5) If the vouchers are to be absorbed by the receiving PHA, the billing arrangement on behalf of the family or families in question ceases at the end of the month on the date of the local PIH field office letter. For example, if the local PIH field office letter is dated June 15, the billing arrangement ends June 30. **The initial PHA continues to be responsible for any outstanding payments due to the receiving PHA.**

HUD may in certain instances require the initial PHA to honor a late submission of the reexamination documents (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee.

d. Family Decides to Port to Another Jurisdiction. The receiving PHA does not issue a voucher to a family under a billing arrangement that decides to move under portability to another jurisdiction. Instead, the receiving PHA notifies the initial PHA of the family's request. The initial PHA is responsible for issuing the family a voucher and following the procedures outlined in section 9 above. Good communication between all three PHAs is crucial in these cases.

12. Portability – Administrative Fees. With the release of the HCV administrative fee study, the formula for determining administrative fee amounts owed under portability may change. Until such time as a change in the administrative fee formula is implemented through rulemaking, the requirements of this notice continue to apply.

The administrative fee structure changed with the release of the final portability rule. Revised regulations at 24 CFR § 982.355(e)(3) now provide that the initial PHA reimburses the receiving PHA for the lesser of 80% of the initial PHA's ongoing administrative fee or 100% 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. The example below illustrates how administrative fees are now calculated. **Initial and receiving PHAs continue to have discretion to negotiate and agree to a different administrative fee amount.**

The initial PHA’s column B administrative fee rate (as indicated in previous guidance) and the receiving PHA’s column B administrative fee rate are used in determining the administrative fee amount owed for a ported voucher. HUD publishes the administrative fee rates every year. The posted administrative fees are found at www.hud.gov/offices/pih/programs/hcv.

Proration due to insufficient administrative fee funding will apply to the administrative fee amount for which the receiving PHA may bill the initial PHA. That is, when determining the administrative fee amount, proration will be applied to both the initial and receiving PHA’s administrative fee rate. Information on administrative fee proration for portability billing purposes will be provided in the administrative fee rate guidance published by HUD every year in the following webpage:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv.

The administrative fee amounts may be used for the entire calendar year to avoid the need for PHAs to re-calculate their portable fees each quarter, unless otherwise instructed by HUD.

Example: administrative fee proration for the year is 79%. The initial PHA’s column B administrative fee rate is \$60.59 per voucher. The receiving PHA’s column B administrative fee rate is \$42.05 per voucher. The receiving PHA bills the initial PHA for \$33.21 [the lesser of: (1) \$38.29 ($\$60.59 \times 0.79 \times 0.8$) or (2) \$33.21 ($\$42.05 \times 0.79$)]. See the table below for a visual representation of this example.

PHA A (initial PHA)	Column B Rate x Proration x 0.8 *admin fee proration in this example is 79%
	\$ 60.59 x 0.79 x 0.8 = \$38.29

PHA B (receiving PHA)	Column B Rate x Proration x 1 *admin fee proration in this example is 79%
	\$ 42.05 x 0.79 x 1 = \$33.21
<i>Billed Administrative Fee = \$33.21</i>	
<i>*under previous rule requirements the billed administrative fee would have been \$38.29</i>	

On September 16, 2015, HUD sent a letter to PHAs providing initial guidance in response to several issues raised after publication of the final portability rule. A follow-up email was sent on October 15, 2015. All of the provisions of the letter and email have been incorporated into this notice. As it relates to changes in the billed administrative fee amount resulting from publication of the final portability rule, the letter instructed receiving PHAs to send an updated form HUD-52665 to the initial PHA no later than October 30, 2015. The follow-up email clarified that the effective date of the change would be no earlier than October 1, 2015. If the initial PHA wished to start sending the new lesser amount at a date after October 1, 2015, it could do so. Changes to the administrative fee amount as a result of publication of the final portability rule apply to all vouchers under a billing arrangement. HUD may take action in cases where the receiving PHA failed to send the Form HUD-52665 by October 30, 2015, including but not limited to, instructing initial PHAs to offset future monthly payments until the overpayment is reconciled.

13. Portability - Summary of Portability Billing Deadlines: The following table summarizes portability billing deadlines by submission type and cross-references the relevant sections of this notice.

Table: Portability Billing Deadlines

Submission Type:	Deadline:	Section of this Notice:
Initial Billing	90 days from the expiration date of the initial PHA's voucher. *30 additional days if delayed billing is due to suspension of the voucher's term.	section 14.b
Initial Payment	30 days from receipt of initial billing.	section 15.a
Subsequent Payments	5 th business day of the month.	section 15.a
Change in the Billing Amount	10 business days from effective date of the change.	section 14.e

Submission Type:	Deadline:	Section of this Notice:
Termination of Billing Arrangement	10 business days from effective date of termination.	section 16

14. Portability – Billing the Initial PHA. Regulations at 24 CFR § 982.355(e) provide that the receiving PHA may bill the initial PHA for housing assistance payments (HAP) and administrative fees to fund the assistance for a portable family. This section outlines the process of billing the initial PHA, including completing form HUD-52665, deadlines for initial billings submitted by receiving PHAs, late initial billings, and changes to the billing amount.

In many cases billing difficulties result from miscommunication between agencies. HUD encourages PHAs to work cooperatively to resolve billing difficulties, so that any potential hardship on participants or unnecessary administrative burden is avoided.

a. Form HUD-52665. The initial PHA must enter the date by which the initial billing must be received by the initial PHA on Part I, line 9 of the form. The receiving PHA must complete and send Part II of Form HUD-52665 with sufficient time so that it is received by the initial PHA on or before the initial billing deadline. See section 14.b below for information on the initial billing deadline.

If the receiving PHA will bill the initial PHA, the receiving PHA must: (1) complete and send Part II of the Form HUD-52665 and (2) attach a copy of the new Form HUD-50058. See section 8 above for more information on communications between PHAs, including requirements for transmittal of Personally Identifiable Information via email. Note that Part II-B of form HUD-52665 has several options and more than one of those options may be applicable to each receiving PHA submission of the form. As it relates to the initial portability billing submission, both options 3 and 10 under Part II-B must be completed.

b. Initial Billing Deadline. The initial billing submission must be received by the initial PHA no later than 90 days following the expiration date of the initial PHA’s voucher. For

example, if the initial PHA's voucher expires 10/30/2016, the initial billing deadline is 01/28/2017.

In cases where suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher term. If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 days. If the initial PHA has not received the portability form within the new 30-day deadline, the initial billing is late.

c. Late Initial Billings. The initial PHA is generally not required to honor initial billings that are not received by the initial billing deadline. If the initial PHA has not received a billing notice by the deadline and determines that it will not accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it returns the late Form HUD-52665 to the receiving PHA. **A receiving PHA that failed to send the initial billing by the billing deadline is generally required to absorb the family into its own program unless the initial PHA is willing to accept the late submission.**

HUD may require the initial PHA to accept the late billing in certain cases (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). In such cases, HUD may subsequently transfer units and funding from the receiving PHA to the initial PHA when it is feasible. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA's failure to submit the bill on time, including reducing the receiving PHA's administrative fee.

d. Mid-month Moves. If the effective date of the HAP is on a date other than the first of the month, the receiving PHA cannot bill for administrative fees for that month. This is because administrative fees are earned for each program unit under HAP contract on the first day of the month. Receiving PHAs may bill for the pro-rated HAP amount to the new landlord for a partial

month. Receiving PHAs may also bill for the full HAP paid to the previous landlord, if the receiving PHA has a policy of paying full HAP to the previous landlord on the move-out month. This is because ported vouchers are administered in accordance with receiving PHA policies.

Example: The family leases a unit and the HAP is effective on 10/13/16. The receiving PHA cannot bill for administrative fees for the month of October. The receiving PHA starts billing for administrative fees in November and may bill for the pro-rated HAP amount for October.

e. Changes in the Billing Amount. The receiving PHA must send a new Form HUD-52665 to report a change in the billing amount along with form HUD-50058. As it relates to changes in the HAP amount, both options 4 and 10 under Part II-B of form HUD-52665 must be completed.

Receiving PHAs must notify the initial PHA of changes in the billing amount no later than 10 business days following the effective date of the change. HUD strongly encourages receiving PHAs to notify the initial PHA of billing changes at the same time that it notifies the owner and the family in order to provide the initial PHA with advance notice of the change.

If the receiving PHA fails to send the Form HUD-52665 and Form HUD-50058 within 10 business days following the effective date of the HAP change, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the 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. The examples below illustrate this policy.

Example of an Increase: The HAP amount increased effective 10/1/2016. The initial PHA did not receive the revised HUD-52665 and HUD-50058 until 12/9/2016. The initial PHA is not responsible for payment of any increase in the billing amount prior to the payment for 01/2017.

Example of a Decrease: The HAP amount decreased by \$50 effective 10/1/2016. The initial PHA did not receive the revised HUD-52665 and HUD-50058 until 1/10/2017. The initial PHA paid an additional \$200 (\$50 for October, November, December and January) and would offset this amount in future payments.

15. Portability – Billing Payments. This section outlines the billing payment process, including deadlines for billing payments made by the initial PHA and transfer of units and funding as a result of late payments. In many cases billing difficulties simply result from miscommunication between agencies. HUD encourages PHAs to work cooperatively to resolve billing difficulties, so that any potential hardship on participants or unnecessary administrative burden is avoided.

a. Initial and Subsequent Billing Payments. 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.

Initial PHAs may not terminate or delay making payments under existing billing arrangements as a result of over-leasing or funding shortfalls in the initial PHA’s program. PHAs may only terminate HAP contracts to which they are a party to address insufficient funding in accordance with 24 CFR § 982.454.

b. Transfer of Units and Funding as a Result of Late Payments. 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 section 15.a above. Notwithstanding the transfer policies described below, failure to comply with HUD’s financial procedures, including the billing and payment deadlines outlined above, may also result in the reduction of administrative fees.

The steps below outline 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 below. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.

- (1) The receiving PHA may request by memorandum to the Director of the local PIH field office with jurisdiction over the receiving PHA (the lead PIH field office) that HUD transfer the unit or units and funding in question. A copy of all correspondence between the PHAs on the matter must be attached.
- (2) The lead PIH field office will notify the initial PHA of the request within 15 business days of receipt of the receiving PHA's request. This notice will include the amount of time the initial PHA has to respond (as described in step 3 below). A copy of this notification will be sent to the PIH field office director in the PIH field office with jurisdiction over the initial PHA.
- (3) The initial PHA must respond to the lead PIH field office's notice within 15 business days. If the initial PHA is contesting whether the billing payments were late, it must provide supporting documentation in their response.
- (4) The lead PIH field office will render a decision no later than 15 business days following the deadline by which the initial PHA had to respond to the lead PIH field office's memorandum.
- (5) If the lead PIH field office determines that the payments in question were late, it will send a memorandum to the Housing Choice Voucher Financial Management Division indicating the number of units to be permanently transferred from the initial PHA to the receiving PHA.

The number will correspond with the number of families for which billing payments were late. A copy of this memorandum will be sent to the PIH field office with jurisdiction over the initial PHA and to both PHAs.

(6) After receipt of the lead PIH field office's memorandum, HUD will reduce the baseline number of units and budget authority from the initial PHA's ACC and increase the baseline number of units and budget authority on the receiving PHA's ACC. HUD will use the revised baseline numbers to readjust the funding.

(7) The billing arrangement on behalf of the family or families in question ceases with the transfer of the unit or units. **The initial PHA continues to be responsible for any outstanding payments due to the receiving PHA.**

16. Portability - Terminating a Billing Arrangement. This section outlines the process of terminating a billing arrangement with the initial PHA. A billing arrangement is terminated when the receiving PHA absorbs the family into its program after having billed the initial PHA or when the HAP contract is terminated for any reason.

a. Notifying 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 the billing arrangement. As it relates to terminating a billing arrangement, Part II-B options 7, 8, or 9 of form HUD-52665 may be applicable.

b. Retroactive Absorption. Retroactive absorptions are not allowed. However, receiving PHAs have 10 business days from the effective date of the absorption to send an updated form HUD-52665 to the initial PHA. This may result in absorptions that are retroactive but for no more than 10 business days.

There is one exception to the limitation on retroactive absorptions. If an initial PHA requests that the receiving PHA absorb ported vouchers as a way of avoiding terminations of assistance due to a funding shortfall, the receiving PHA may retroactively absorb families for which the receiving PHA was previously billing. In these cases, the receiving PHA reimburses the initial

PHA for payments back to the effective date of the absorption but only for the current calendar year. This cost saving strategy is consistent with PIH Notice 2011-28, Cost-Savings Measures in the Housing Choice Voucher (HCV) Program.

c. Receipt of Payments for Billing Arrangements No Longer in Effect. 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 take the following actions:

- (1) Direct the receiving PHA not to utilize their administrative fee reserve account in accordance with 24 CFR § 982.155(b)(3).
- (2) Reduce the receiving PHA's administrative fees by up to 10 percent of the monthly billing amount (HAP and Administrative Fee) in question for each month the payments continued after the billing arrangement was terminated. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during this period). HUD will consider the circumstances of the particular case in making this determination. For example, if the receiving PHA was billing the initial PHA \$600 a month on behalf of a family and collected four monthly billing payments beyond the billing arrangement termination date (for a total of \$2,400), the receiving PHA is responsible for returning \$2,400 to the initial PHA. In addition, HUD may reduce the PHA's administrative fee by up to \$240 as sanction for failing to terminate the billing arrangement in a timely manner.

Should HUD decide to take any of the actions described above, the PIH field office with jurisdiction over the receiving PHA will send a letter to the receiving PHA informing the receiving PHA of such action. The PIH field office must send a copy of the letter to the HCV Financial Management Center (FMC) and the HCV Financial Management Division (FMD). HUD may also further reduce the administrative fee if the receiving PHA does not promptly

return the overpayment to the initial PHA. This general policy does not in any way restrict the PIH field office Director from exercising additional remedial action.

See Appendix A for guidance on how to record refunded amounts in the financial records by both the initial PHA and the receiving PHA.

17. Portability and Project-based Assistance. In accordance with 24 CFR § 983.2(b)(2), provisions on portability do not apply to the project-based voucher (PBV) program. A family porting into a receiving PHA’s jurisdiction may only receive a tenant-based voucher or homeownership assistance. In order for a tenant-based voucher holder to be housed in a PBV unit, the family would have to apply to the receiving PHA’s PBV program and give up their tenant-based voucher prior to being housed in the PBV unit.

18. PIC Data Entry. This section summarizes the action codes to use for ported families when completing Form HUD-50058. It is crucial that PHAs enter timely and accurate information on portability families, as this data is used by HUD when determining whether a PHA is eligible for any additional funding that may be available for PHAs that are paying portability costs above their normal average costs. HUD encourages PHAs to review PIC records periodically to ensure they are properly identified.

a. Type of Action – Line 2a. The table below summarizes the action code submission associated with portability moves. Further details about each submission type are also addressed after the table.

Table: Action Code Submission for Portability Moves

Responsible PHA	Event	Type of 50058 Submission
Initial PHA	Applicant family ports	Voucher Issuance (action code 10)

Responsible PHA	Event	Type of 50058 Submission
Initial PHA	Participant family ports	Move-out (action code 5); regardless of billing or absorption
Receiving PHA	Family ports	Voucher Issuance (action code 10); before entering the following codes, as applicable.
Receiving PHA	Applicant family ports	New Admission (action code 1)
Receiving PHA	Participant family ports	Move-in (action code 4); regardless of billing or absorption

New Admission (action code 1): the receiving PHA classifies the family as a new admission if the family exercises portability with its first admission into the voucher program. This family (generally off the waiting list) would have received a voucher for the first time from the initial PHA and exercised portability without ever having leased an assisted unit in the initial PHA’s jurisdiction.

Portability Move-in (action code 4): the receiving PHA classifies the family as a portability move-in if the family moves into a receiving PHA’s jurisdiction after being previously assisted by an initial PHA regardless of whether the receiving PHA absorbs the family or bills the initial PHA. The portability move-in code is used even if the receiving PHA chooses to conduct a new reexamination of income for a participant family.

Portability Move-out (action code 5): the initial PHA classifies the family as a portability move-out if the family moves out of an initial PHA’s jurisdiction, where it had been previously assisted, regardless of whether the receiving PHA bills the initial PHA or absorbs the family. Reporting of changes in the family’s income or composition after a portability move-out is the responsibility of the receiving PHA. See paragraph below on how initial PHAs code applicant families.

Issuance of Voucher (action code 10): Receiving PHAs must enter an action code 10 before submission of an action code 1 (New Admission) and an action code 4 (Portability Move-in). Initial PHAs must enter an action code 10 for families that exercise a portability move with their first admission into the voucher program. See page 70 of the Form HUD-50058 Instructions Booklet for sections to be completed at the time of voucher issuance.

b. Effective Date of Action - Line 2b. Enter the effective date as provided below:

New Admission (action code 1): enter the effective date of the HAP contract for the family.

Portability Move-in (action code 4): enter the effective date of the HAP contract for the family.

Portability Move-out (action code 5): enter the date the family moves out of the initial PHA's jurisdiction.

Issuance of Voucher (action code 10): enter the effective date of the voucher. Each PHA enters the effective date of its own voucher.

c. Did family move into your PHA jurisdiction under portability? - Line 12d. If the family moved into a PHA's jurisdiction under portability as a new admission or portability move-in, regardless of whether the family is absorbed into the receiving PHA's jurisdiction or the initial PHA is billed, the PHA must enter "Y" in this field. This field will not change as long as the family continues to be assisted in the receiving PHA's jurisdiction, even if the receiving PHA decides to absorb the family after first billing the initial PHA.

d. PHA Code Billed - Line 12f. Since an initial PHA is not responsible for submitting reports into PIC for families whose assistance is administered by another PHA under portability, the PHA code of the billed PHA must be entered correctly on this line in order for reporting rates to be accurate.

e. Projected Effective Date of Next Reexamination – Line 2i. Generally, this will be 12 months from the last reexamination done by the initial PHA (found in line 2b of the 50058 and

Part I, line 7 of form HUD-52665 sent by the initial PHA to the receiving PHA) or 12 months from the effective date of the reexamination completed by the receiving PHA (generally the effective date of the lease and HAP contract.)

19. Moving to Work (MTW) Agencies. Requirements of the portability rule are applicable to MTW agencies, unless there are approved activities in their MTW plan to the contrary. An MTW agency cannot apply its MTW flexibilities to a voucher holder living in another PHA's jurisdiction. After having moved under portability, the family is subject to the receiving PHA's policies.

20. Paperwork Reduction Act. The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2577-0169 and 2577-0083. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

21. Further Information. Questions concerning this notice should be directed to portability@hud.gov.

/s/

Lourdes Castro Ramírez,
Principal Deputy Assistant Secretary
for Public and Indian Housing

APPENDIX A

Guidance on PHA Entries for Returning Unearned HAPs and Fees under Portability

A number of cases have surfaced in which the receiving PHA did not promptly inform the initial PHA that billing arrangements were terminated as the result of absorption by the receiving PHA or families leaving the program. As a result the initial PHA continued to make monthly payments for housing assistance payments and administrative fees to the receiving PHA. The receiving PHA is required to refund the excess payments to the initial PHA. See section 16.c above.

The following guidance is provided regarding how to appropriately record in your accounting records accounting entries to accommodate the returned payments.

RECEIVING PHA. Normally, the receiving PHA would have recorded the following when the HAP was paid to the owner on behalf of the family:

DR	Accounts Receivable - Initial PHA (for HAP and fee)
CR	Income (for Fee)
CR	Cash (for HAP payment)

Upon receipt of payment of HAP and fees from the initial PHA, the Receiving PHA would have:

DR	Cash
CR	Accounts Receivable - Initial PHA

Typically, when the billing arrangement ceased the first set of transactions did not happen (the owners were not paid and the income was not recorded) because the receiving PHA had terminated the HAP contract. The receiving PHA failed to inform the initial PHA and continued to debit "Cash" and credit "Accounts Receivable" when the payment arrived from the initial

PHA. The large CR balance in the “Accounts Receivable” is abnormal and the receiving PHA should have recognized something was amiss.

When the receiving PHA returns funds it should not have received to the initial PHA, the receiving PHA would:

DR Accounts Receivable - Initial PHA

CR Cash

When all refunds are made, the “Accounts Receivable” balance should be zero or at normal levels.

INITIAL PHA. When the initial PHA recognized the obligation under the billing arrangement for the family that moved under the portability procedures it would have created the expense and the payable:

DR Expense - Control (and subsidiaries for HAP and administrative expenses)

CR Accounts Payable - Receiving PHA

When the initial PHA then paid the receiving PHA:

DR Accounts Payable - Receiving PHA

CR Cash

When the initial PHA receives the funds back from the receiving PHA:

DR Cash

CR Expenses - Control (and subsidiaries)

APPENDIX B

How Portability Works

What is Portability?

"Portability" in the Housing Choice Voucher (HCV) program refers to the process through which your family can transfer or "port" your rental subsidy when you move to a location outside the jurisdiction of the public housing agency (PHA) that first gave you the voucher when you were selected for the program (**the initial PHA**).

The agency that will administer your assistance in the area to which you are moving is called the receiving PHA.

New families have to live in the jurisdiction of the initial PHA for a year before they can port. But, the initial PHA may allow new families to port during this one-year period.



What Happens Next?

1. You must notify the initial PHA that you would like to port and to which area you are moving.
2. The initial PHA will determine if you are eligible to move. For example, the PHA will determine whether you have moved out of your unit in accordance with your lease.
3. If eligible to move, the initial PHA will issue you a voucher (if it has not done so already) and send all relevant paperwork to the receiving PHA.
4. If you are currently assisted, you must give your landlord notice of your intent to vacate in accordance with your lease.

Contacting the Receiving PHA

1. Your case manager will let you know how and when to contact the receiving PHA. Your case manager must give you enough information so that you know how to contact the receiving PHA.
2. If there is more than one PHA that administers the HCV program where you wish to move, you may choose the receiving PHA. The initial PHA will give you the contact information for the PHAs that serve the area. If you prefer, you may request that the initial PHA selects the receiving PHA for you.

Generally, the initial PHA is not required to give you any other information about the receiving PHAs, but you may wish to find out more details when contacting them (such as whether the receiving PHA operates a Family Self-Sufficiency or Homeownership program).

How Portability Works



Before Porting, Things You Should Know

Subsidy Standards: The receiving PHA may have different subsidy standards. In other words, the initial PHA may have issued you a three-bedroom voucher, but the receiving PHA may, if appropriate for your family, issue you a two-bedroom voucher. Note, however, that the PHA's subsidy standards must comply with fair housing and civil rights laws. This includes processing reasonable accommodation requests that are necessary for qualified individuals with disabilities.

Payment Standards: The payment standards of the receiving PHA may be different for each PHA. Payment standards are what determine the amount of the rent that the PHA will pay on your behalf. If a receiving PHA's payment standards are lower than the initial PHA, then the portion of the rent you pay may be more than what you were paying at the initial PHA.

Re-screening: The receiving PHA may re-screen you using their own policies, which may be different than the initial PHA's policies and could result in them denying your request to move. When contacting the receiving PHA, you may want to ask whether they re-screen families moving into their area under portability and what are their policies for termination or denial of HCV assistance. This will assist you in determining if the receiving PHA's policies might prevent you from moving to their jurisdiction.

Time Management: You should manage the move so that you have enough time to arrive at the receiving PHA before the initial PHA voucher expires; otherwise, you may lose your assistance.

See front for more details

Once at the Receiving PHA

1. The receiving PHA will issue you a voucher to search for a unit in its jurisdiction. Your voucher must be extended by 30 days from the expiration date on the voucher issued by the initial PHA.
2. When you submit a request for tenancy approval, the time on your voucher will stop until you are notified in writing whether the unit is approved or denied. The request for tenancy approval is the form you will submit to the receiving PHA once you find a unit, so that the receiving PHA can determine whether you may rent that unit under the program.
3. If you decide that you do not want to lease a unit in the area, the receiving PHA will return your voucher to the initial PHA. The initial PHA is not required to, but may, extend the term of your voucher so that you may search for a unit in the initial PHA's jurisdiction or port to another jurisdiction.

Any additional instructions will be provided by the receiving PHA. PHAs must comply with all nondiscrimination and equal opportunity requirements in the portability process, including, but not limited to, the Fair Housing Act, Section 504 of the of the Rehabilitation Act, Title VI of the Civil Rights Act, and title II of the Americans with Disabilities Act.

See front for more details



Special Attention of:

Public Housing and Section 8 Program Administrators, Public Housing Hub Office Directors; Public Housing Field Office Directors; Program Center Coordinators; Resident Management Corporations; Resident Councils; Participants of Public Housing, Housing Choice Voucher, Project-Based Certificate, and Project-Based Voucher Programs; Section 8 Property Owners and Landlords

Notice: PIH 2018-24

Issued: November 27, 2018

Expires: Effective until amended, superseded, or rescinded

Cross References: 24 CFR §5.216, 24 CFR §5.218, and 24 CFR §5.233

SUBJECT: Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report

- 1. Purpose.** This notice is the administrative guidance that explains the procedures public housing agencies (PHAs) are required to use for verifying social security numbers, social security benefits of applicants, and participants and household members at the time of application for rental housing assistance programs and during mandatory reexamination of household income. This notice also includes the procedures for effective use of the EIV system to reduce subsidy payment and administrative errors. This notice supersedes Notice PIH 2012-10.

The notice includes the following updates:

- a. Updated website links and references.
- b. Removal of the provision in Paragraph # 22 requiring a PHA to notify HUD Headquarters when the PHA determines the tenant name or surname reported on the HUD 50058 is correct. In these instances, PHAs may notify the Social Security Administration (SSA).
- c. Revisions to the "Authorized Workarounds" in Paragraph # 22 for overdue examinations not completed due to pending litigation. Any information PHAs send to the field office must now be sent only by encrypted emails.
- d. Clarification of the penalties for noncompliance with EIV's Identity Verification Report in Paragraph # 24 and elimination of the right to appeal the imposition of penalties.

e. Elimination of the attachments.

2. **Applicability.** This notice applies to the following HUD-PIH rental assistance programs: Public Housing, Section 8 Moderate Rehabilitation, Project-Based Certificate, Project-Based Voucher, and Housing Choice Voucher Programs. This notice also applies to all PHAs, including Moving-to-Work (MTW) PHAs who administer these programs.
3. **Background.** The Housing and Community Development Act of 1987 (Public Law 100242; 101 Stat. 1864; 42 USC §3543) grants the Secretary the authority to require applicants and participants (including their household members) to disclose his/her social security number (SSN) as a condition of initial or continuing eligibility for participation in any HUD rental assistance program.

HUD uses the SSN (along with the name and date of birth) of an individual to validate that person's identity, obtain employment and income information via computer matching programs, and ensure duplicate assistance is not being paid. These uses allow HUD, program administrators, and auditors to determine compliance with program requirements, as well as determine the eligibility and level of assistance a family is eligible to receive and reduce improper payments, and to prevent fraud waste and abuse in HUD rental assistance programs.

Under HUD regulations at 24 CFR §§ 5.216 and §5.233, PHAs are required to use the EIV system to reduce administrative and subsidy payment errors. In accordance with this, PHAs:

- a. Use EIV's Identity Verification report for effective decision making, corrective action implementation, and reporting activities;
- b. Implement policies and procedures to minimize erroneous subsidy payments on behalf of families who have not complied with the required SSN disclosure and documentation requirements;
- c. Use EIV to validate and/or verify tenant-reported social security benefits; and
- d. Provide accurate and reliable information to HUD in the Inventory Management System Public and Indian Housing Information Center (IMS/PIC).

PHAs verify social security benefits of applicants, participants, and household members by contacting the local office of the SSA by phone, fax, or in writing; reviewing an original social security benefit check; or accepting tenant-provided benefit verification letters. SSA electronically provides HUD with available benefit information on all current participants and household members who have disclosed a valid SSN, name and date of birth which matches SSA records. HUD makes this information available to administrators of Public Housing and Section 8 programs through the EIV system. Electronic benefit verification is the most efficient verification method available and allows PHAs to process family annual and interim reexaminations expeditiously. SSA continues to receive requests for income verification from PHAs despite the electronic exchange of SS and SSI benefit

information between SSA and HUD. However, PHAs are not to refer applicants for or participants of HUD rental assistance programs to local SSA offices to obtain verification of the amount of their SS/SSI benefits. PHAs are required to use the EIV system as a third-party source to verify tenant income information during all mandatory annual and interim reexaminations of family income and composition, in accordance with 24 CFR §5.236 and HUD administrative guidance.

4. **Effective Date.** This notice is effective upon issuance and remains effective until amended, superseded, or rescinded.
5. **SSN Disclosure.** In accordance with 24 CFR §5.216, applicants and participants (including each member of the household and including, live-in aides, foster children, and foster adults) are required to disclose his/her SSA-assigned SSN, with the exception of the following individuals:
 - a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States) **and** have not been assigned an SSN. These individuals in most instances would not be eligible for a SSN.
 - i. A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status is **not eligible** for housing assistance and cannot be housed.
 - ii. A family that consists of two or more household members **and at least one** household member that has eligible U.S. citizenship or eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR §5.520. The PHA may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.

Note: Financial assistance may only be provided to individuals with eligible immigration status in accordance with 42 USC §1436a, which is generally evidenced by the individual providing his/her Green Card (Form I-551 – U.S. Permanent Residence Card) or other documentation approved by the Department of Homeland Security for noncitizens with refugee or asylee status.

- b. Existing program participants, who as of January 31, 2010, were 62 years of age or older (born on or before January 31, 1948). This exemption continues even if the individual moves to a new public housing assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended). In accordance with 24 CFR §5.212, the collection, maintenance, use, and dissemination of SSNs, any information derived from SSNs and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local laws.

An individual who previously declared to have eligible immigration or eligible citizenship status may **not** change his/her declaration to no longer contend to have eligible immigration

status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance of these requirements.

Note: There are no provisions under HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. A mixed family includes individuals that have both eligible and ineligible aliens so long as at least one household member is eligible. However, some State laws prohibit single ineligible individuals from executing a contract (i.e., lease or other legally binding documents). If this is the case in your State, the family must **not** be admitted into the program.

- 6. SSN Documentation.** The PHA must request the applicant and participant (including each member of the household), who are not exempt under Paragraph 5 of this notice, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:
- a. An original SSN card issued by SSA;
 - b. An original SSA-issued document, which contains the name and SSN of the individual; or
 - c. An original document issued by a Federal, State, or local government agency, which contains the name and SSN of the individual.

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned an SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in Paragraph 5 of this notice) are required to disclose his/her SSA-assigned SSN.

The SSA issues three types of social security cards depending on an individual's citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

- a. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
 - i. U.S. citizens; or
 - ii. Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e., refugees and asylees).
- b. The second type of card bears, in addition to the individual's name and SSN, the legend: "**NOT VALID FOR EMPLOYMENT.**" SSA issues this card to lawful noncitizens who do not have DHS permission to work and are required by law to provide an SSN to obtain general assistance benefits that they already have qualified for.

- c. The third type of card bears, in addition to the individual's name and SSN, the legend "**VALID FOR WORK ONLY WITH DHS AUTHORIZATION.**" SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all noncitizens' documents with DHS before an SSN card is issued to a noncitizen.

7. Rejection of Documentation. The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

- a. The document is not an original document; or
- b. The original document has been altered, mutilated, or is not legible; or
- c. The document appears to be a forged document (i.e., does not appear to be authentic).

The PHA should explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the PHA within a specified time frame.

8. Verification of the SSN. The PHA shall verify each disclosed SSN by:

- a. Obtaining the documentation listed under Paragraph 6 of this notice from applicants and participants (including each member of the household);
- b. Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and
- c. Recording the SSN on line 3n of the form HUD-50058 and transmitting the form HUD-50058 to HUD within a timely manner. PHAs are required to transmit the form HUD-50058 no later than 30 calendar days of receiving the SSN documentation, to enable HUD to initiate its computer matching efforts for current program participants.

Note: HUD does not initiate computer matching efforts for applicants.

HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the status of the identity verification process as **Verified, Failed, Pending, Excluded, or Deceased** on the household *Summary Report*. Below is a summary of the action the PHA is required to take for each identity verification status.

- a. Verified. If the information matches the SSA database, the individual's identity verification status will be **Verified** (See Exhibit 1 below). No action is required by the PHA.

- b. **Failed.** If the information does **not** match the SSA database, the identity verification status will be **Failed** (see Exhibit 2 below). See Paragraph 22 of this notice for guidance on how to correct personal identifiers of individuals whose identity verification status is failed.
- c. **Pending.** If an individual's identity verification status is **Pending** (see Exhibit 3 below), this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation. No action is required by the PHA.
- d. **Excluded.** Effective April 30, 2012, if an individual's identity verification status is **Excluded** (see Exhibit 4 below), this means that HUD will not send the tenant personal identifiers to SSA for validation because a valid SSN is not reported on line 3n of the form HUD-50058 or the individual has failed EIV pre-screening as described in Paragraph 22 of this notice.
- e. **Deceased.** If an individual's identity verification status is **Deceased** (see Exhibit 5 below), this means SSA's records indicate the person is deceased. The PHA is required to confirm the death with the family's head of household or listed emergency contact person. If the individual is deceased and the only household member or the only surviving household members are a live-in aide and the live-in aide's family (single member household), the PHA must complete an end of participation (EOP) action on form HUD-50058 and discontinue assistance and/or tenancy. If the individual is not deceased, refer to the instructions in PIH Notice 2012-04, dated January 1, 2012 (or any successor notice).

If there are authorized household members remaining in the program, update the family composition accordingly, complete an interim reexamination action on form HUD-50058, and take any other action in accordance with HUD administrative guidance (see PIH Notice 2012-04) and PHA-established policies.

See the *HUD-SSA Computer Matching Schedule* in Paragraph 17 of this notice to determine when your State's data will be matched. The PHA is required to retain the EIV **Summary Report** or **Income Report** in each family file as confirmation of compliance with the SSN disclosure, documentation and verification requirements. Electronic retention of these reports is permissible.

Once the individual's identity verification status is classified as **Verified**, the PHA may, at its discretion, remove and destroy the copy of the documents referenced in Paragraphs 6 and 8 of this notice. Paper documentation must be destroyed by either shredding or burning. Electronic documentation must be destroyed by erasing or permanently deleting the file. Additional guidance related to destruction of records is available in HUD Handbook 2400.25, Rev 4.1: *HUD Information Technology Security Policy*, dated March 2016. The handbook is available online at: <http://www.hud.gov/sites/dfiles/OCHCO/documents/240025CIOH.pdf>. Retention of the EIV report which shows an identity verification status of **Verified** in the tenant file is adequate documentation of a valid tenant SSN. This will minimize the risk of exposing the individual's SSN.

PHAs are encouraged to minimize the number of tenant records that contain documents which display the full nine-digit SSN. PHAs are permitted to maintain EIV income reports in the tenant file for the duration of tenancy, and no longer than three years from the end of participation date.

Exhibit 1: Example of an individual with an EIV identity verification status of **Verified**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-0397	FLOYD		XXXX/1942	69	Head	Verified

Exhibit 2: Example of an individual with an EIV identity verification status of **Failed**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-0681	Lori		XXXX/1954	58	Head	Failed

Exhibit 3: Example of an individual with an EIV identity verification status of **Pending**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3273	JOHN		XXXX/1969	42	Head	Pending

Exhibit 4: Example of an individual with an EIV identity verification status of **Excluded**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3027	zrizn	AVWMZMIVS	XX/XX/1945	67	Head	Verified
***-**-0726	zrxfo	AVWMZMIVS	XX/XX/1970	41	Other Adult	Excluded
***-**-0954	zilwzhr	AVWMZMIVS	XX/XX/1995	16	Other youth under 18	Verified
***-**-0205	luolwz	AVWMZMIVS	XX/XX/2002	10	Other youth under 18	Verified

Exhibit 5: Example of an individual with an EIV identity verification status of **Deceased**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3872	Dorothy		XX/XX/1934	78	Head	Deceased
***-**-7962	Sammuel		XX/XX/1983	28	Live-in aide	Verified

9. **Invalid SSNs.** An invalid SSN is an SSN that SSA has never assigned. SSA has never assigned an SSN with the first three digits of: 000, 666, or 900 series (numbers within the 900-999 range). Additionally, prior to June 25, 2011, SSA never assigned an SSN with the

first three digits of: 000, 666, 772, 800, or 900 series. SSA has never assigned an SSN with the second two digits of 00 or the last four digits of 0000. For additional information on ways to determine if an SSN is valid, visit SSA's website:

<http://www.socialsecurity.gov/employer/ssnvhighgroup.htm>.

If you suspect someone of committing fraud, waste, or abuse against SSA, report it to SSA's Office of Inspector General (OIG) by mail, fax, or phone.

U.S. Mail: Social Security OIG Hotline
P.O. Box 17785
Baltimore, Maryland 21235

FAX: 410-597-0118

Telephone: 1-800-269-0271 from 10:00 a.m. to 4:00 p.m. Eastern Standard Time

TTY: 1-866-501-2101 for individuals that are speech and/or hearing impaired

10. Individuals without an assigned SSN. It is not uncommon for certain individuals to not have an SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

- a. U.S. newborn children (eligible citizens - these individuals will be issued an SSN upon SSA confirmation of birth).
- b. Noncitizens lawfully present in the U.S. (ineligible noncitizens - these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for).
- c. Noncitizens unlawfully present in the U.S. (ineligible noncitizens - typically, these individuals cannot be assigned an SSN).

PHAs are required to use the Public and Indian Housing Information Center (PIC) Tenant ID Management tool to generate a unique identifier (commonly referred to as an alternate ID (ALT ID)) for those individuals who have not been assigned an SSN. A job aid for use of the PIC Tenant ID Management tool is available online at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/ts.

Contact the PIC Coach in your local HUD office if you need assistance with PIC.

Once an individual discloses an SSN, the PHA must use the Tenant ID Management tool to replace the ALT ID with the disclosed SSN within 30 calendar days of receipt of the SSN.

Note: SSA requires that an individual who has never been issued a SSN card or has lost their SSN card, complete Form SS-5 – *Application for a Social Security Card* to request an original or replacement SSN card or change information on his/her SSA record. The form is available online at www.socialsecurity.gov, or can be obtained at the local SSA office.

11. Individual Taxpayer Identification Number (ITIN). An ITIN is a taxpayer identification number for **Federal tax purposes only** for certain non-residents and resident noncitizens, their spouses and dependents, who cannot obtain an SSN. The ITIN begins with the number “9” and is formatted like a SSN (9XX-XX-XXXX). However, the ITIN is **not** an SSN and PHAs must **not** report the ITIN on line 3n of the form HUD-50058. PHAs are required to use the Tenant ID Management tool to replace any reported ITIN on line 3n of the form HUD-50058 with an SSN or an ALT ID.

ITINs do not entitle a noncitizen to social security benefits, create any inference regarding a noncitizen’s immigration status, or give a noncitizen a right to work in the U.S.

12. Addition of a New Household Member. When a participant requests to add a new household member, who is at least 6 years of age or is under the age of six and has an SSA-assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice at the time of such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA shall not add the new household member to the family composition until the family provides such documentation. The PHA is not authorized to generate an ALT ID for the affected household member.

When a participant requests to add a new household member, who is under the age of six and does not have an SSA-assigned SSN, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, **only if** the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA is required to generate an ALT ID as referenced in Paragraph 10 of this notice. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA **must** terminate the entire family’s tenancy or assistance, or both.

13. Penalties for Failure to Disclose and/or Provide Documentation of the SSN. In accordance with 24 CFR §5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

- a. **Applicants.** The PHA must deny the eligibility of an assistance applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN. However, if the family is

otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for the time determined by the PHA. The PHA should prescribe in its policies, the maximum time the family may remain on the waiting list, pending disclosure of requested information. If all household members have not disclosed their SSN at the time a unit becomes available, the PHA must offer the available unit to the next eligible applicant family on the waiting list.

Applicants to the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals, under 24 CFR §882, may be admitted to the program without providing the requested documentation (prior to or at admission), however, the individual must provide the PHA with such documentation within 90 calendar days from the date of admission. The PHA may grant the individual one 90-day extension, if in its discretion, determines that the individual's failure to comply with the SSN documentation requirement was due to unforeseen circumstances and outside the control of the family. If upon the expiration of the provided time period, the individual fails to comply with the SSN disclosure and documentation requirements, the PHA must terminate the individual's tenancy or assistance, or both.

- b. **Participants.** The PHA must terminate the assistance of Section 8 program participants (the entire household) and terminate the tenancy of Public Housing participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation. However, if the family is otherwise eligible for continued assistance or tenancy in the program, the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed** 90 calendar days from the date the PHA determined the family noncompliant with the SSN disclosure and documentation requirement, only if the PHA determines:
- i. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
 - ii. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.

If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the entire family's tenancy or assistance, or both. The PHA must deny admission or terminate the family's tenancy or assistance, or both, if the family submits falsified SSN documentation.

14. PHA Penalties for Noncompliance. PHAs are required to ensure compliance with SSN disclosure, documentation, and verification requirements outlined in this notice and HUD regulations, including the enforcement of penalties for a family's failure to comply with the HUD requirements. PHAs may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both as a result of a PHA's noncompliance and/or enforcement of the SSN disclosure, documentation, and verification requirements outlined in this notice and the applicable HUD regulations.

15. Third Party Verification Requirement. PHAs are required to comply with admission and occupancy requirements for Public Housing under 24 CFR §960.259(c)(1) and Section 8 under 24 CFR §982.516(a)(2), which require PHAs to obtain and document in the family/tenant file, third party verification of the following factors, or document in the file why third party verification was not available: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent.

It is the Department's position that an SSA benefit verification letter (dated within the last 60 days of the PHA request date for information or within the PHA-tenant interview date) provided by the family or an undisputed EIV *Income Report* which displays the current social security benefit amount is third party verification. No additional verification is required by the PHA. SSA has requested that PHAs refrain from submitting requests to SSA to verify that a family is **not** receiving social security benefits. Should neither document be available or there is a conflict, refer to PIH Notice 2018-18, dated October 26, 2018 (or any successor notice).

16. Third Party Verification of SS/SSI Benefits of Applicants and Household Members.

EIV does not contain SS and SSI benefit information of applicants for HUD's rental assistance programs. PHAs must ask applicants to provide a copy of their SS and/or SSI benefit letter, dated within the last 60 calendar days, for each household member that receives SS and/or SSI benefits. Do not send applicants to SSA offices if they do not have this information. Instead:

- a. While meeting with the applicant, help the applicant request a benefit verification letter from SSA's website, Social Security Online, at: www.socialsecurity.gov. This service is free and SSA will send the letter to the applicant within 10 business days. To access the site for requesting benefit verification letters, go to the Social Security Online front page, click on the *Online Services* link; click on the applicable link. For example: *If you get Social Security benefits or have Medicare you can*, then click on the *Get your benefit verification letter* link; **or**, *if you get Supplemental Security Income (SSI) you can*, then click on the *Get your benefit verification Letter* link and follow the instructions on the *Information about the Proof of Income Letter* page. Assist the applicant in answering questions and explain how the applicant should provide the letter to your office; **or**
- b. Ask the applicant to request a *Proof of Income Letter* from SSA's toll-free number 800-772-1213. Persons with speech or hearing impairments may call SSA's toll-free telephone typewriter (TTY) number 800-325-0778, Monday through Friday, between 7:00 a.m. and 7:00 p.m.

Note: SSA encourages SS and SSI recipients to use SSA's web site rather than the toll-free number to request *Proof of Income* letters.

- c. The PHA must obtain the original SSA benefit letter from the individual, make a photocopy of the document for the PHA file and return the original document to the individual. The PHA is required to use the gross benefit amount reported on the SSA *Proof of Income Letter* to calculate annual income from social security benefits.

17. Third Party Verification of SS/SSI Benefits of Participants and Household Members.

SSA-provided SS/SSI benefit information for participants and household members, who have validated personal identifiers (the individual's identity verification status in EIV is **Verified**), is available from HUD's online EIV system, which can be accessed by authorized PHA staff at: https://hudapps.hud.gov/HUD_Systems.

- a. PHAs are required to use EIV to verify SS/SSI benefits of current participants and household members. PHAs who do not currently have access to EIV must contact their local HUD field office to register for access to the EIV system. PHA EIV access is set up by the PHA's designated EIV User administrator and approved by the EIV Coordinator in the local HUD office. Information regarding HUD's EIV system is available online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhiip/uivsystem.

PHAs are required to view the EIV **Income Report** and confirm with the tenant that the current listed benefit amount is correct. If the tenant agrees with the current EIV-reported amount, the PHA is required to use the EIV-reported gross benefit amount to calculate annual income from social security benefits.

- b. If the tenant disputes the EIV-reported benefit amount, the PHA is required to request the tenant to provide a current (dated within the last 60 calendar days) SSA *Proof of Income Letter*. If the tenant is unable to provide the requested document, the PHA is required to follow the instructions under *Third Party Verification of SS/SSI Benefits of Applicants and Household Members* (see Paragraph 16 of this notice). The PHA is required to use the gross benefit amount reported on the SSA *Proof of Income Letter* to calculate annual income from social security benefits.
- c. If the tenant's benefit information is **not** available in the EIV system, the PHA is required to follow the instructions under *Third Party Verification of SS/SSI Benefits of Applicants and Household Members* (Paragraph 16 of this notice). The PHA is required to use the gross benefit amount reported on the SSA *Proof of Income Letter* to calculate annual income from social security benefits.

Note: It is possible for EIV to not display SS/SSI benefit information although the individual has been receiving benefits for years. EIV displays only benefit information that has been received from SSA.

- d. Photocopies of social security checks or bank statements are **not** acceptable forms of verification for SS/SSI benefits because the dollar amount listed may not be the gross benefit amount.

Note: SS/SSI benefit information in the EIV system is updated every three months in accordance with the below schedule during the 1st and 15th of the month. Income information is posted to the family's individual EIV **Income Report** (accessible by using EIV's *Income Information By Head of Household function*). Recently posted SSA

income information during the work week (Monday through Friday) will **not** be available via batch EIV **Income Reports** (accessible by using EIV's *Income Information By Reexamination Month* function) until successful completion of EIV's weekend summarization job which posts updated information to all batch verification reports every Saturday morning.

SS/SSI benefits are increased annually to reflect the SSA-approved cost of living adjustment (COLA) for all beneficiaries by December 31st in the EIV system. However, due to the large volume of data processed by the Department, there may be a delay in updating the new SS/SSI benefit amounts until January 15.

HUD-SSA Computer Matching Schedule	
PHA State	Month Matched
AK, DC, DE, GQ, HI, IA, IN, KS, LA, ME, NC, NE, NH, NJ, NV, OH, RI, SD, TN, TQ, TX, UT, VQ, VT, WV, WY	January, April, July, October
AL, FL, GA, ID, IL, KY, MD, MI, MO, ND, NY, VA	February, May, August, November
AR, AZ, CA, CO, CT, MA, MN, MS, MT, NM, OK, OR, PA, RQ, SC, WA, WI	March, June, September, December

18. SS and SSI Benefit Amounts Reported in EIV. All Federal SS and SSI benefit amounts are reported in EIV as whole dollar amounts. By law, SSA rounds all benefit amounts down to the next lower whole dollar. As such, the SS and SSI benefit amount listed on an SSA *Proof of Income Letter* may differ from what is reported in EIV. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV will display the amount as \$450.00. This disparity is unsubstantial and typically has no impact on the family rent contribution amount. However, to ensure consistency in the determination of annual SS and SSI income, PHAs are required to use the EIV-reported SS and SSI benefit amounts unless the tenant disputes the EIV-reported amount. In instances in which the family disputes the EIV-reported SS and/or SSI benefit amount, PHAs are required to follow the verification requirement outlined in Paragraph 16 of this notice and use the full amount listed on the SSA *Proof of Income Letter* and round the final result of the calculation and report on the applicable line(s) of the form HUD-50058 as outlined below.

Note: When calculating any monetary amount always use the full dollar amount and cents and round the final result.

19. Reporting of monetary figures on the form HUD-50058. Enter only whole dollar amounts. Do not include cents, commas, or dollar signs. Enter \$4,500.00 as 4500. Round each monetary amount up when a number is \$0.50 or above. Enter \$4,500.80 as 4501. Round each monetary amount down when a number is \$0.49 or below. Enter \$4,500.25 as 4500.

20. Applying SSA COLA to Current Annual and Interim Reexaminations. Each year during the month of October, SSA announces the COLA by which Federal SS and SSI benefits are

adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The Federal COLA does **not** apply to State-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations (in accordance with PHA-established policy) of family income which have **not** yet been completed **and** will be effective January 1st or later of the upcoming year.

Example: Bob Jones currently receives \$500 a month (SS benefit). You are currently working on his reexam (in November 2011) which is effective 02/01/2012. The PHA must determine annual SS income as follows:

- Current benefit amount: $\$500 \times 3.6\%$ [or 0.036] (COLA rate) = **\$18.00 COLA**
- New gross SS benefit effective 01/01/2012 = **\$518.00** (\$500 current benefit + \$18 COLA)
- Annual income effective 02/01/2012: $\$518 \times 12$ = **\$6,216.00**.

21. Treatment of SSA Overpayment Deductions from Social Security Benefits.

SSA Overpayment Deductions. An overpayment occurs when SSA pays an individual more than s/he should have been paid. If this happens, SSA will notify the individual and his/her designated representative payee, if applicable. Recovery of an overpayment is made by withholding the monthly social security check until the overpayment is paid in full (individuals receiving SS benefits), unless the individual requests a lesser withholding amount and SSA approves the request. Full withholding would start 30 days after SSA notification of the overpayment. SSA begins deducting money (for overpayment recovery) from SSI payments at least 60 days after SSA notification of the overpayment. Generally, SSA will withhold 10 percent of the maximum Federal SSI benefit rate each month. However, an individual may request that less be taken from their benefit, or an individual may ask to pay back the overpayment at a rate greater than 10 percent.

Regardless of the amount withheld to repay SSA the overpayment amount, or the length of the anticipated withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. The PHA should be cognizant of the SSA-determined overpayment amount and length of time the reduced payment will occur, to ensure the family's accurate rent contribution for the duration of reduced income; however, circumstances may arise affecting the end date of the withholding period, causing it to go on longer than anticipated. See examples below.

Note: A Social Security overpayment can be withheld from an SSI payment due to the beneficiary.

Example 1: Bob's gross monthly SSI benefit is \$500 (or \$6,000 annually). On February 1, 2012, Bob brings in a letter showing that SSA has determined that he has been overpaid by

\$100 and will begin deducting 10% (\$50) from his monthly check on March 1, 2012. Note that this deduction would occur for **only 2 months** (March and April). The PHA would calculate annual income at \$5,400 ($\$500 - \$50 = \450×12) and Bob's rent contribution should be changed for two months; however, once the deduction ends (May 2012), annual income should be recalculated again, and the full SSI benefit should again be used to calculate annual income.

Example 2: Sue's gross monthly SSI benefit is \$500 (or \$6,000 annually). On February 1, 2012, Sue brings in a letter showing that SSA has determined that she has been overpaid by \$2,000 and will begin deducting 10% (\$50) from her monthly check on March 1, 2012.

Note that this deduction would occur for 40 months.

The PHA would calculate annual income at \$5,400 ($\$500 - \$50 = \450×12) and Sue's rent contribution should be changed and effective until the next reexamination of income, at which time a new redetermination would be made based on current information and documentation.

22. Additional Information Regarding Supplemental Security Income (SSI).

This paragraph provides PHAs with additional information regarding federal SSI benefits paid by SSA which should be considered by the PHA at the time a family or individual applies for initial or continued participation in a HUD rental assistance program. Additional information is available online at: <http://www.ssa.gov/ssi/spotlights/spot-living-arrangements.htm> and <http://www.ssa.gov/ssi/text-benefits-ussi.htm>.

- a. Generally, prior to the admission into a HUD rental assistance program, individuals who live in institutions such as hospitals, nursing homes, prisons or jails are not eligible for SSI or are only eligible for a maximum of \$30 a month (some States supplement this \$30 benefit). However, this reduced SSI benefit amount may increase once the individual reports his or her new residency address to SSA. Accordingly, PHAs must consider the increased benefit amount when conducting subsequent reexamination of family income in accordance with HUD requirements and the PHA's policies.
- b. Some States supplement the Federal SSI benefit with additional payments. The following States do not supplement the Federal SSI benefit with additional payments: Arkansas, Arizona, Mississippi, North Dakota, Tennessee, and West Virginia. EIV will display (as reflected in the below EIV screenshot) the State-paid SSI amount as supplied by SSA for individuals that reside in the following States: California, Delaware, District of Columbia, Hawaii, Iowa, Michigan, Montana, Nevada, New Jersey, Pennsylvania, Rhode Island, and Vermont. Accordingly, PHAs must include State-paid SSI benefits in addition to Federal-paid SSI benefits when determining annual income in accordance with HUD requirements and the PHA's policies.

Supplemental Security Income Benefits		Payment History of Net Benefits Paid			
Verification Data		Date	Federal Amount	State Amount	Type of Payment
Payment Status Code:	CO1 - Current Pay				
Alien Indicator:	K				
SSI Monthly Assistance Amount (Current):	\$898.00	01/01/2012	\$898.00	\$188.00	Recurring Payment
State Supplement Amount (Current):	\$188.00	07/01/2011	\$874.00	\$188.00	Recurring Payment
Payee Name and Address:	MARTH	09/01/2010	\$874.00	\$171.00	Recurring Payment
		08/11/2010	\$38.00	\$0.00	Underpayment
		08/01/2010	\$874.00	\$171.00	Recurring Payment
		07/01/2010	\$895.00	\$171.00	Recurring Payment
		07/01/2010	\$38.00	\$0.00	Recovery Voided
		08/01/2010	\$874.00	\$171.00	Recurring Payment

Date Received by EIV: 12/02/2011

23. How to Ensure Availability of Social Security Benefit Information in the EIV System.

The availability of SS and SSI benefit information in the EIV system depends on PHA data quality and timely submission of form HUD-50058 to the PIC. PHAs must ensure that data entered in section 3 of the form HUD-50058 (i.e., household members' name, date of birth and social security number) is complete and accurate. The first and last name of each household member reported on the form HUD-50058 must be listed **exactly** as it is listed on SSA records.

If a family's form HUD-50058 is not successfully submitted to PIC or if it has been 15 or more months since the effective date listed on the current form HUD-50058 available in PIC, HUD will not initiate computer matching for these individuals and new income information will **not** be available in EIV.

In accordance with 24 CFR §5.233(a)(2)(ii), PHAs are required to use EIV to reduce administrative and subsidy payment errors. As such, PHAs are required to use EIV's **Identity Verification Report** on a monthly basis to correct noted deficiencies within 30 calendar days and improve the availability of income information in EIV. This report contains two reports (*Failed EIV Pre-Screening and Failed SSA Identity Test*), which can help the PHA improve the availability of income information and assist the PHA in identifying tenant personal identifiers that require correction. The **Identity Verification Report** contains a third report called *Pending Verification*.

Below is a summary of how these reports can be beneficial to the PHA.

- a. **Failed EIV Pre-screening Report:** Informs the PHA of any tenant who has failed HUD's EIV pre-screening process due to incorrect personal identifiers (date of birth, surname, and/or SSN) or invalid form HUD-50058 transmitted (e.g. effective date of action is 15 or more months ago – an indication of a possible overdue annual reexam). Household members with a PIC-generated ALT ID will appear on EIV's **Immigration Report**. Tenants that appear on this report are excluded from the data matching process with the SSA and Department of Health and Human Services' (HHS') National Directory of New Hires (NDNH). Thus, HUD will not request or obtain income information for these individuals.

PHA staff is required to review this report on a monthly basis; if applicable, obtain appropriate documentation from the tenant, update section 3 of the form HUD-50058,

accordingly, and successfully transmit a corrected or updated form HUD-50058 to PIC; or use the PIC Tenant ID Management tool to replace incorrect SSNs, ITINs, or ALT IDs within 30 calendar days of receiving the SSN documentation.

For invalid (PIC-rejected) forms HUD-50058, PHA staff is required to review the PIC Error Submission report and take appropriate action to correct the error and successfully submit a corrected form HUD-50058 to PIC in accordance with the PIC Technical Reference Guide available online at:

<https://www.hud.gov/offices/pih/systems/pic/50058/pubs/trg>.

Pages 184-186 provide guidance on how to correct specific PIC errors. The PIC Coach within the PHA's designated local HUD office is available to assist with PIC. Additional PIC help resources are available online at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/gethelp.

- b. **Failed SSA Identity Test Report:** Informs the PHA of any tenant whose identity cannot be confirmed by SSA due to incorrect personally identifiable information (PII) (date of birth, surname, and/or SSN) recorded in section 3 of the form HUD-50058, which do not match the personal identifiers reported in SSA's database or SSA has determined that a tenant is deceased. HUD verifies all tenant-reported PII against the SSA database. For certain tenants, SSA will provide the date of birth and/or social security number as reported in SSA's files. PHAs are required to update the form HUD-50058 with the SSA-provided information. As outlined in Paragraph 10 of this notice, PHAs must use the PIC Tenant ID Management tool to replace incorrect SSNs or ALT IDs with the correct SSN. If a tenant disputes the SSA-provided information, the tenant must resolve this disparity with SSA.

PHA staff is required to review this report monthly and if applicable, obtain appropriate documentation from the tenant, update section 3 of the form HUD-50058, accordingly, and successfully transmit a corrected form HUD-50058 to PIC within 30 calendar days. Effective April 30, 2012, the **Failed SSA Identity Test Report** (and the **Income Report**) will include the date SSA verified the tenant PII, as reflected in the below EIV screenshot. This feature will allow HUD and PHAs to monitor timely implementation of corrective action to address incorrect PII.

Verification Reports >> [Report Selection](#) >> PHA Statistics

Failed EIV Pre-Screening **Failed SSA Identity Test** **Pending Verification**

Failed SSA Screening as of 12/31/2011	
Participant Code:	OH001 Columbus MHA
Program Type:	All PIH Programs
Reexamination Month:	All
Households that Failed Verification:	102
Action Type:	All

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[Printer Friendly Version](#)

Next Group 
1 - 50 of 102 Households [Last Page](#)

HOH SSN ***-**-2272 HOH Name bruzh URIZ SH HOH DOB 12/24/1976				
Member SSN	Member Name	Member DOB	Failed Verification Description	Date of Verification
***-**-0083	rszofwyz SZIZU	12/07/2010	Verification failed - SSN not found in SSA records	12/04/2010
HOH SSN ***-**-3404 HOH Name vshzp NRIZPRWYZ HOH DOB 12/31/1960				
Member SSN	Member Name	Member DOB	Failed Verification Description	Date of Verification
***-**-3404	vshzp NRIZPRWYZ	12/31/1960	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-8235	vnrw ZHRNZ	01/07/1971	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-4597	vnrw MZNSZIFWYZ	07/22/1998	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-9825	vshhp ROHZ	05/28/1994	Verification failed - SSN not found in SSA records	12/04/2008

c. **Pending Verification Report:** This report identifies households and household members in which the tenant PII is scheduled to be matched against SSA's database with HUD's next monthly computer matching effort in accordance with the computer matching schedule in Paragraph 17 of this notice.

Identity Verification Report: Failed SSA Identity Test Report Error Messages			
No.	Error Message Description	Error Message Explanation	Required PHA Corrective Action
1	SSN is verified; individual is deceased Or SSN is verified; individual is deceased MM/DD/YYYY	The tenant's SSN has been verified by SSA and the individual is deceased. If a date follows the error message, this is the date of death as reflected in SSA records.	Contact tenant's adult family member or next of kin to confirm death. Upon confirmation of death, update family composition accordingly. If a single member deceased household, take appropriate action in accordance with HUD administrative guidance, program requirements and PHA-established policies, including termination of HAP contract (Section 8 only) and transmit an End of Participation (EOP) (action type 6) form HUD-50058. If applicable, recover HAP overpayment from landlord.
2	Verification failed - SSN not found in SSA records XXXXXXXXXX	The tenant SSN recorded on line 3n of the form HUD-50058 is not a valid number issued by SSA. However, the SSN reflected in SSA records is listed at the end of the error message.	Update line 3n of form HUD-50058 with the SSA-provided SSN.

Identity Verification Report: Failed SSA Identity Test Report Error Messages			
No.	Error Message Description	Error Message Explanation	Required PHA Corrective Action
3	Verification failed – SS/SSI benefits cannot be disclosed due to discrepancy in date of birth MM/DD/YYYY	The tenant is receiving SS/SSI benefits; however, SSA cannot disclose the benefit amount because the date of birth recorded on line 3e of the form HUD-50058 does not match the DOB in SSA records is listed at the end of the error message.	Request the tenant to provide a current SS/SSI benefit letter. Update line 3e of form HUD-50058 with the SSA-provided DOB. The tenant must follow-up with SSA to dispute the SSA-provided DOB.
4	No benefits reported by SSA MM/DD/YYYY	No benefits reported by SSA. The date of birth recorded on line 3e of the form HUD-50058 does not match the DOB in SSA records. However, the DOB reflected in SSA records is listed at the end of the error message.	Update line 3e of form HUD-50058 with the SSA-provided with SSA to dispute the SSA provided DOB.
5	Verification failed – Date of birth matched, but surname did not match with SSA records or Surname does not match; DOB was checked	The surname recorded on line 3b of the form HUD-50058 is not the same surname reflected in SSA's records.	Ask the tenant to provide documentation (SSN card, birth certificate, State issued identification card, marriage license or court documents) of the other name he/she is using. Update line 3b of form HUD-50058 with the correct surname.
6	Verification failed – SS/SSI benefits cannot be disclosed due to discrepancy in name	The tenant is receiving SS/SSI benefits; however, SSA can not disclose the benefit amount because the PIC-reported SSN is not assigned by SSA to the PIC-reported tenant name.	Request the tenant to provide a current SSN assignment letter or SS/SSI benefit letter. Ask the tenant to provide documentation (SSN card, birth certificate, State issued identification card, marriage license or court documents) of the other name he/she is using. Update line 3b and/or 3c of form HUD-50058 with the correct first name and/or surname.

Identity Verification Report: Failed SSA Identity Test Report Error Messages			
No.	Error Message Description	Error Message Explanation	Required PHA Corrective Action
7	Verification failed – SSN not found in SSA records XXXXXXXXXX	The tenant’s SSN recorded on line 3n of the form HUD-50058 is not a valid number issued by SSA. However, the SSN reflected in SSA records is listed at the end of the error message.	Update line 3n of form HUD-50058 with the SSA-provided SSN.
8	Verification failed – SSN not found in SSA records or SSN is not in file	The tenant’s SSN recorded on line 3n of the form HUD-50058 is not a valid number issued by SSA or listed in SSA records.	Request original SSN card from tenant. Confirm SSN displayed on the card matches the SSN reported on line 3n of form HUD-50058. If the numbers do not match, make the necessary correction on line 3n of form HUD-50058. For continued SSN failures, notify HUD, OIG or other law enforcement agency.

Note: If SSA’s records are wrong, only the tenant can request SSA to correct his/her record, by completing and submitting form *SS-5 Application for a Social Security Card* to the local SSA office.

Identity Verification Report: Failed EIV Pre-screening Report Error Messages			
No.	Error Message Description	Error Message Explanation	Required PHA Corrective Action
1	Failed DOB check.	The date of birth is blank or null.	Enter DOB on line 3e of the form HUD-50058. Ensure only numbers are recorded.
2	Failed effective date check.	The effective date of action is more than 15 months old.	Enter a current effective date on line 2b of the form HUD-50058. The PHA must ensure that it has completed a current reexam of family income and composition.
3	Failed last name check.	The last name is blank or null.	Enter last name on line 3b of the form HUD-50058. Ensure only alpha characters are recorded. Do not include special characters such as -, ~, ` , or ‘.

4	Failed SSN check.	The SSN is not numeric or all 9s or LIKE {000% } or LIKE {__00% } or LIKE {%0000}.	Enter valid SSN on line 3n of the form HUD-50058. Do not use repetitive numbers, as directed in the current Form HUD-50058 Instruction Booklet, if tenant has not disclosed an SSN. The PHA is required to generate an ALT ID for affected individuals as outlined in Paragraph 9 of this notice. Note: This error message will occur for any individual with a PIC-generated ALT ID. If the individual is a U.S. Citizen/National or eligible noncitizen, the PHA is required to follow up with the family to obtain documentation of the SSN. If the individual does not contend to have eligible immigration status (and coded as an ineligible noncitizen on the form HUD-50058), no further action is required by the PHA.
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PHAs are authorized to implement the below HUD-approved workaround for any overdue reexamination which the PHA has not completed due to pending litigation.

Authorized Workaround:

1. The PHA has the discretion to submit the following information to their local HUD field office but **ONLY** by using encrypted email:
 - a. PHA Certification signed and dated by the Executive Director or designated official on the PHA's letterhead, which states the following:
 - i. I certify under the penalties of perjury that the attached list of head of household (HOH) names have an overdue reexamination due to pending litigation initiated by the Housing Authority or tenant. I agree to submit an updated form HUD-50058 to PIC, in accordance with HUD guidance, once the court has issued a final order or the family discontinues participation in a PIH rental assistance program, whichever occurs first.
 - ii. I understand that HUD may request copies of court proceedings filed with the court and agree to furnish such documents and any other documents associated with the pending litigation upon written request of a HUD official.
 - b. A listing of HOHs in which there is pending litigation, the type of pending litigation pending (e.g., wrongful termination, breach of lease, tenant holding overaction, etc.) the date the litigation began and court-assigned case number.
 - i. PHAs must download the EIV **Identity Verification/Failed EIV Pre-screening** report into Excel (prior to implementing action item 3 below) to create the

listing. However, the PHA must delete all tenant social security numbers before sending the file to HUD.

- ii. Add the following columns to the report and provide the applicable information:
 - > Date Litigation Initiated
 - > Court-Assigned Case Number
 - > Type of Litigation

- 2. The PHA will successfully submit an action type 3 (interim reexamination) form HUD-50058 to PIC in which **line 2b, effective date** contains a current date; line 2i, projected effective date of next reexamination is equal to a date 12 month from the date listed on line 2b; and any line between 2q – 2u (PHA use only) contains the words “Pending Litigation.”

23. When the Identity Verification Report is Updated. Below is guidance to explain how the Identity Verification report is updated.

Failed EIV Pre-Screening Report

- a. When the PHA corrects or updates information reported on section 2 or 3 of the form HUD-50058, EIV copies the data from PIC on a nightly basis. However, the **Failed EIV Pre-Screening** Report is updated on a weekly basis, on every Saturday morning upon successful completion of EIV’s weekend summarization job. PHAs are able to view the updated report on the following Monday.

Failed SSA Identity Test Report

- b. When the PHA corrects or updates PII reported on section 3 of the form HUD-50058, EIV copies the data from PIC on a nightly basis. However, the **Failed SSA Identity Test** Report is updated once the following actions occur:
 - i. The updated PII is submitted to SSA for verification in the month following the month in which the updated form HUD-50058 was successfully submitted to PIC; and SSA returns the results (verified, failed, or deceased) of the data matching process to EIV; or
 - ii. SSA updates the PII reported on its records and this information matches the PII reported on the form HUD-50058 when HUD submits the tenant PII to SSA for verification; and
 - iii. Successful completion of the EIV’s weekend summarization job.
 After the above actions occur, PHAs are able to view the updated report the following Monday.

Note: When an updated form HUD-50058 to correct a tenant’s PII is successfully submitted to PIC or a tenant’s SSN is corrected using the PIC Tenant ID Management tool, the tenant’s EIV identity verification status will change to **Pending** from **Failed**. This action is confirmation that the PHA has successfully submitted an updated form HUD-50058 to PIC and that HUD has flagged the

tenant record for data matching with SSA during the next monthly data matching process. For example, updated PII on forms HUD-50058 successfully submitted to PIC in January will be matched with SSA in February. These updated households will **not** appear on the *Pending Verification Report* unless these households were scheduled for the original quarterly computer matching process in accordance with the *HUD-SSA Computer Matching Schedule* in Paragraph 17 of this notice.

- 24. Penalties for Non-Compliance with Use of EIV's Identity Verification Report.** HUD will monitor each PHA's *Identity Verification Report* on a quarterly basis and notify affected PHAs of the need to correct deficiencies and if requested by HUD, provide documentation and/or certification of PHA-implemented corrective action(s). PHAs may be subject to sanctions for noncompliance with this notice.
- 25. For inquiries about this Notice contact:** Your local HUD field office or Rochelle Katz of HUD Headquarters' Office of Public and Indian Housing, Real Estate Assessment Center Programs at 202-475-4967, or via email at: EIV_HELP@HUD.GOV. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339.
- 26. Paperwork Reduction.** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control number(s) 2577-0083 and 2577-0267. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

/s/

Dominique Blom
General Deputy Assistant Secretary
for Public and Indian Housing

APPENDIX 2
SUMMARY OF CHANGES

**Lebanon County Housing
Section 8 Administrative Plan
Summary of Changes – 2020**

Table of Contents

Update the table of contents to reflect changes to Chapters 4, 11 and the addition of Chapter 22.

Chapter 4 – Establish Preferences and Maintaining the Waiting List

E. LOCAL PREFERENCES [24 CFR 5.410]

Add a new Adapted Dwelling Preference and modify the associated Table One to reflect a change in point values for the local preferences.

Chapter 11 – Payment Standards

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

Remove the 2nd paragraph and insert the following text to clarify utilization of small market FMRs.

The PHA will establish a voucher payment standard amount for each FMR area in the PHA jurisdiction. The established payment standard for each FMR area may be based on either the most recently published HUD jurisdiction wide FMR or the most recently published HUD small market FMR applicable to the relevant FMR area. The decision to utilize the jurisdiction wide or small market area FMR shall be based on the PHA's determination as to which standard is most likely to maximize unit availability for voucher participants. Within each distinct FMR area, the PHA will establish payment standard amounts for each unit size. The PHA may have a higher payment standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range. The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

Chapter 22 – Project Based Housing Vouchers

Add an entire new chapter describing project based voucher procedures.

**Lebanon County Housing
Section 8 Administrative Plan
Summary of Changes – 2021**

Table of Contents

Update the table of contents to reflect changes to Chapter 4

Chapter 4 – Establish Preferences and Maintaining the Waiting List

E. LOCAL PREFERENCES [24 CFR 5.410]

Create new local preference structure as follows:

1. Residency preference - Families who live, work, or have been hired to work or who are attending school in Lebanon County or Dauphin County. This preference shall be worth fifty (60) points.

2. Domestic Violence Preference - Families who are victims of domestic violence shall receive a preference worth ten (20) points. For the purposes of this preference, the certification process and the definition of domestic violence shall be the same as that used in the most recent version of the Violence Against Woman Act (VAWA) and related implementing regulations published by HUD.

3. Transitional/Condemned Housing Preference – Applicants in this preference class are eligible for either, but not both of the following preferences.

1) Transitional Housing - Families who have been selected to, or are currently participating in, a transitional housing program which receives funding through: McKinney-Vento; HEARTH, HOME; or the Commonwealth of Pennsylvania shall be worth fifteen (18) points. NOTE – To claim this preference the applicant must be referred to the HA by a recognized transitional housing program provider. The applicant MAY NOT claim this preference without a referral from a program provider.

2) Condemned Housing – Families whose current residence has been condemned by a Federal, State or Local government agency through no fault of the applicant. NOTE – To claim this preference the applicant must be referred to the HA by the governmental entity authorized by law to issue the condemnation action. The referring entity must certify that the circumstances which lead to the condemnation was not the direct result of actions or behavior by the applicant.

4. Employment/Student preference. Preference shall be given to an applicant household whose head, spouse, co-head or unrelated partner of the head of household. Is employed at least 17 ½ hours per week in a position which generates employment income countable under HUD’s definition of Annual Income or is actively receiving Unemployment Compensation related to having been employed at least 17-1/2 hours per week or is currently a full-time student, who is a person carrying a subject load that is considered full-time for day students under the standards and practices of the education institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree. The Employment/Student Preference shall also apply

if the head of household, spouse, co-head, or unrelated partner of head of household are age 62 or older or are receiving Social Security Disability, Supplemental Security Income (SSI) or any other payments based on an individual's inability to work. This preference shall be worth 10 points

5. Homeless Preference - 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. This preference shall be worth 5 points.