

## **PHILLIPSBURG DCD HOUSING CHOICE VOUCHER PROGRAM**

Phillipsburg, New Jersey

### **HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN**

**Adopted by PHA Board of Commissioners**

**Resolution No.:** \_\_\_\_\_

**Date of Adoption:** \_\_\_\_\_

**Effective Date of Implementation:** \_\_\_\_\_

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## **Housing Choice Voucher Program Administrative Plan Implementation Schedule**

**Staff Training Date, if needed:** \_\_\_\_\_

### **Distribution to Functional Areas**

**This Plan has been distributed to staff in the following departments:**

- ☐ **SECTION 8 MANAGERS**
- ☐ **SECTION 8 ADMISSIONS/OCCUPANCY STAFF**
- ☐ **FINANCIAL STAFF**
- ☐ **REASONABLE RENT DETERMINATION (RRD) STAFF**
- ☐ **INSPECTORS**
- ☐ **OTHER: SPECIFY:** \_\_\_\_\_

**Date Policy Prepared:** April 5, 2022

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## **INTRODUCTION AND STATEMENT OF LOCAL OBJECTIVES**

The Phillipsburg DCD Housing Choice Voucher Program, hereinafter referred to as PHA, serves as a public housing authority for the purpose of receiving funds from the U.S. Department of Housing and Urban Development (HUD) for the operation and administration of the Section 8 Tenant-Based Housing Choice Voucher (HCV) program. The PHA enters into an Annual Contributions Contract (ACC) with HUD to administer the HCV program requirements on behalf of HUD.

The HCV program is the federal government's major housing program for assisting very low-income families, the elderly, and persons with disabilities. A family is issued a housing choice voucher to find a safe, decent, and sanitary unit of the family's choice, in the private rental market, where the owner agrees to rent the unit under the HCV program. The assisted unit must meet minimum standards of health and safety as determined by HUD and the PHA. The PHA will pay the owner a housing subsidy on behalf of the family and the family is responsible for paying the difference between the housing subsidy and the rent to owner.

The PHA has developed an Administrative Plan that provide for written policies pertaining to the admissions and continued occupancy of HCV program participants. The Administrative Plan is basically organized in the order of concerns that the PHA encounters in the selection of applicants from the PHA waiting list to reexamining families for continued assistance.

The PHA shall administer the HCV program in compliance with Fair Housing and Equal Opportunities (FHEO), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA), HUD regulations, notices/guidance, the PHA Plan, the Administrative Plan, the PHA's Procedures Manual, the PHA Personnel Policy, and State and local housing laws.

## **OVERVIEW OF THE PHA**

The PHA was established in 1978 and empowered with the responsibility and authority to maintain the Housing Choice Voucher (HCV) program for the City of Phillipsburg, New Jersey.

### **A. Legal Jurisdiction**

The area of operation of the PHA is geographically defined as Phillipsburg's Municipality (The Town of Phillipsburg).

### **B. Mission Statement**

PHA's Mission Statement

The Phillipsburg DCD Housing Choice Voucher Program will administer the Section 8 Housing Choice Voucher Program in a manner that is consistent with the policies of the U.S. Department of Housing and Urban Development. Phillipsburg DCD Housing Choice Voucher Program will provide efficient service to all HCV participants, applicants and owners in the community. We will also provide safe, decent and affordable housing free from discrimination and encourage and assist to improve the quality of life.

### **C. Statement of Local Objectives**

The following objectives of the PHA support the above mission statement:

- To provide decent, safe, and sanitary living conditions;
- To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;
- To promote personal, economic and social upward mobility to assist HCV participants to make the transition from subsidized to non-subsidized housing; and
- To provide an incentive to private property owners/landlords to rent to low-income families by offering timely assistance payments and excellent service.

### **D. Organizational Structure**

The following are the positions/titles of staff members who are responsible for the administration and implementation of the HCV program:

Executive Director

Business Administrator

HCV Clerk

HCV Inspector

### **E. Section 8 Program Administered**

The PHA administers the following Section 8 vouchers and programs:

- Tenant-Based Vouchers  
Enables low-income families to lease safe, decent, and affordable privately owned units of the family's choosing.  
Owners select families for occupancy of a particular unit after screening each family.

### **F. Customer Relations**

The PHA considers all families, owners/landlord, and HUD as its customers. The goal of the PHA is to respond promptly to the needs of its customers. All contact with the customer and the general public will be handled in a professional and courteous manner. The PHA requires complaints to be submitted in writing, except for emergency Housing Quality Standards (HQS) deficiencies.

### **G. Code of Conduct**

In accordance with the Annual Contributions Contract, Section 16, Conflict of Interest and 24 CFR 982.161, the PHA has established written ethical standards of conduct with core values covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts for which program receipts will be or are expended.

The PHA shall adhere to its Code of Conduct and shall sanction and/or terminate any officer, employee, or agent for violations consistent with applicable federal, State, or local law.

The conflict-of-interest prohibition under this section may be waived by the HUD Field Office for good cause.

## **CHAPTER 1: HCV PROGRAM BACKGROUND AND KEY EVENTS**

The HCV program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.

### **A. United States Housing Act of 1937**

The U.S. Housing Act of 1937 authorized local PHAs established by individual states. The 1937 Act also initiated the public housing program. Local PHAs owned and managed public housing and, at the time the public housing program began, PHAs adopted a production approach to providing affordable housing for low-income families because of the Depression Era emphasis on job creation and slum elimination.

For nearly 30 years, public housing that was owned and managed by local PHAs was the primary source of housing assistance for low-income families. Over time, the federal government strategy for housing assistance shifted from sole involvement by PHAs toward involvement by the private housing sector.

### **B. Section 23 Leased Housing Program**

Implemented in 1965, the Section 23 program was the first PHA administered housing program to use privately owned housing. Under the Section 23 program, PHAs leased units from private owners and sublet them to low-income families. PHAs retained tenant selection, rent collection, and, in some cases, management/maintenance responsibilities.

The Section 8 existing housing program replaced the Section 23 program in 1974. PHAs were required to convert Section 23 assisted units to the Section 8 existing housing program. Only a few developments still need to be converted.

### **C. Housing Act of 1968**

The Section 235 homeownership program and the Section 236 rental program created by the 1968 Housing Act continued the strong movement toward using subsidies in privately developed, privately owned housing.

### **D. Experimental Housing Allowance Program (EHAP)**

The EHAP was the most extensive social program demonstration ever conducted by the federal government. It tested the feasibility of providing housing allowances to eligible families and was conducted in 12 locations between 1971 and 1980. This demonstration was the earliest form of federal tenant-based subsidy. Over a nine-year period, nearly 50,000 households received cash assistance. Participants leased units directly from private owners, and homeowners as well as renters were able to participate at two of the demonstration sites.

## **E. The Housing and Community Development Act of 1974**

The Housing and Community Development Act of 1974, enacted several years after the start of the EHAP, authorized the Section 8 program. This legislation signaled a significant shift in the federal housing strategy from locally owned public housing to privately owned rental housing. The Section 8 program included two components:

- Section 8 project-based assistance for existing, newly constructed or rehabilitated housing. These programs replaced the Section 236 programs as the federal government's production programs for privately-owned assisted housing providing housing assistance to families living in specific buildings built or rehabilitated under program contracts; and
- The Section 8 existing housing program, a newly created housing assistance program to be administered by PHAs provided tenant-based subsidies. Under this program, sometimes called the "finders keepers" or "certificate" program, families selected their own housing, and the subsidy followed the family when the family moved.

## **F. The Section 8 Existing Housing Program**

Authorized by the 1974 Housing Act, the Section 8 existing housing program, also known as the rental certificate program, was modeled on the EHAP, but had the following key differences:

- Under the rental certificate program, the PHA made subsidy payments directly to the owners on behalf of the family rather than making payments to the family; and
- The rental certificate program imposed a HUD-established ceiling (fair market rent) on the gross rent for a unit leased under the program.

Under the rental certificate program families generally paid 25% of adjusted income toward the rent; in 1983 this family share increased to 30% of adjusted income.

The program grew rapidly and was popular with Congress, local governments, owners, and low-income families because it:

- Provided assistance quickly;
- Allowed family a choice of housing and anonymity;
- Dispersed families throughout the community and did not create projects or site selection problems; and
- Was a relatively inexpensive program, per family assisted.

## **G. Rental Voucher Program**

Authorized by Congress as a demonstration program in 1984, the rental voucher program was formally authorized as a program in the Housing and Community Development Act of 1987. The program was similar to the rental certificate program, but it allowed families more options in housing selection. The key differences between the rental certificate and rental voucher programs were:

- The rental voucher program did not have a fair market rent limitation; and

- The rental voucher program provided assistance to families based on a pre-determined calculation of assistance amount. Depending on the cost of the housing they actually rented, families could pay more or less than 30% of adjusted income toward rent.

## **H. The Conforming Rules to Combine the Certificate and Voucher Programs**

HUD issued three “conforming” rules in 1994, 1995, and 1998 to more closely combine and conform the rental certificate and rental voucher programs to the extent permitted by law.

In July 1994 and July 1995, HUD published the first two parts of a “conforming” rule designed to combine all aspects of the two programs that did not have different statutory requirements. The July 1994 rule established unified admissions rules. The 1995 rule standardized a wide range of other administrative and leasing activities.

A third conforming rule was published in June 1998. It addressed rent reasonableness, the calculation of rent and housing assistance payments, and the use of special housing types.

While these conforming rules made vouchers and certificates as similar as possible under existing legislation, there were still fundamental differences in establishing unit rents and the rent share paid by program participants.

## **I. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) and Merger of the Certificate and Voucher Programs**

In October 1998, Congress passed housing reform legislation, including a full merger of the certificate and voucher programs. This legislation eliminated all differences and required that the subsidy types merge into one HCV program.

In May 1999, HUD published an interim rule providing for the complete merger of the certificate and voucher programs into the new HCV program. The certificate program is to be phased out by October 2001. This interim rule was effective October 1, 1999, which is known as the merger date.

## **J. Conversion from The Rental Certificate and Rental Voucher Programs to The Housing Choice Voucher Program**

The change of assistance from the certificate and voucher program to the HCV program started October 1, 1999. Effective immediately, all rental vouchers and over-FMR certificate tenancies became subject to requirements of the HCV program. This was possible because the HCV program was modeled on these programs, and the housing assistance payments contracts for those tenancies allowed for changes in computing unit subsidy and family share of rent based upon HUD program rules. Unlike the pre-merger voucher program, the HCV program requires families to pay at least 30% of income toward rent.

Families receiving assistance under the rental certificate program transitioned to housing choice vouchers at the earliest of the following dates: date they move to a new unit with assistance, date they sign a new lease for the same unit, date they agree to convert to housing choice voucher assistance, or the date of their second annual reexamination on or after October 1, 1999.

**K. Applicable Regulations**

The applicable regulations to the HCV program include:

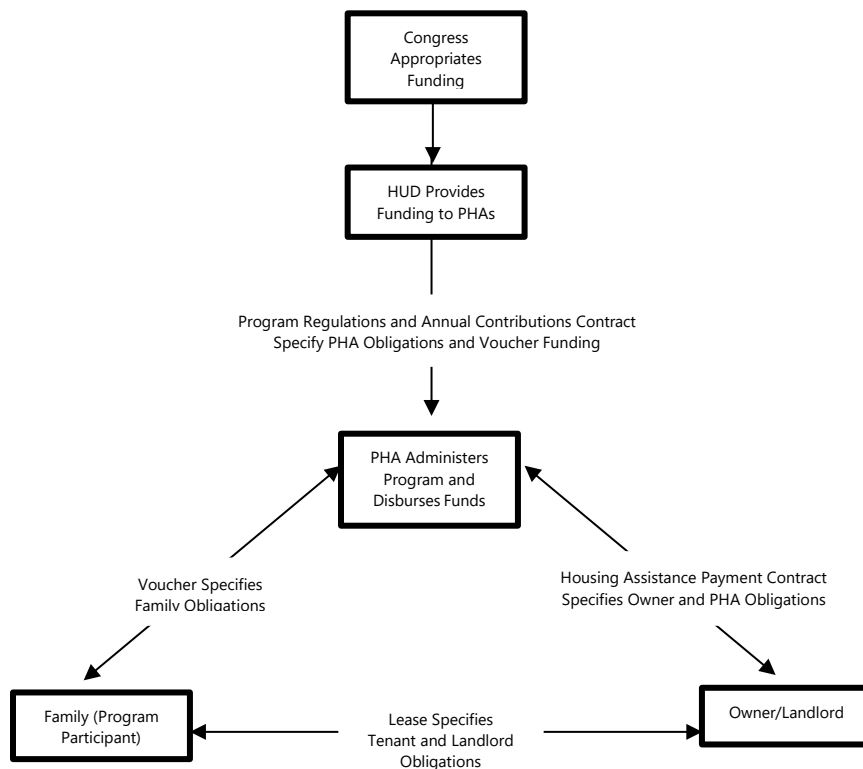
- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
- 24 CFR Part 100 -199: Fair Housing Act
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Voucher (PBV) Program
- 24 CFR Part 984: Section 8 and Public Housing Family Self-Sufficiency Program
- 24 CFR Part 985: Section 8 Management Assessment Program (SEMAP)
- All issues not addressed in this document related to the Section 8 HCV program are governed by the Code of Federal Regulations, the Federal Register, HUD notices, handbooks and guidebooks, memos, and guidelines, and other applicable federal, State, or local laws.



## CHAPTER 2: RELATIONSHIP BETWEEN HUD, THE PHA, THE OWNER, AND THE FAMILY

The PHA enters into contractual relationships with three parties: HUD, the owner, and the family. The roles and responsibilities of HUD, the PHA, the owner, and the family are defined in the federal regulations and in the legal documents that the parties execute to participate in the program.

### A. Relationship and Controlling Documents in the HCV Program



### B. Annual Contribution Contract

The annual contributions contract (ACC) between HUD and the PHA provides the PHA with funding for housing assistance to very low-income households and establishes the PHA's responsibilities in administering this funding.

### C. Roles and Responsibilities

#### 1. Role of HUD:

HUD has four major responsibilities:

- a. Develop policy, regulations, handbooks, notices, and guidance to implement housing legislation;
- b. Allocate housing assistance funds;
- c. Provide technical assistance and training to PHAs; and

d. Monitor PHA compliance with program requirements and performance goals.

2. Role of the PHA:

The PHA's responsibilities are defined in the consolidated ACC, the HAP contract (form HUD-52641), and in applicable regulations. The PHA administers the HCV program under contract with HUD and has the following responsibilities:

- a. Establishing local policies;
- b. Determining family eligibility and reexamining of family income;
- c. Maintaining the waiting list and selecting families for admission;
- d. Calculating of family share of the rent and the amount of the housing assistance payment;
- e. Establishing of utility allowances;
- f. Conducting outreach to owners, with special attention to those with units outside of areas of poverty or minority concentration;
- g. Assisting persons with disabilities in finding satisfactory housing;
- h. Approving units, including assuring compliance with housing quality standards and determining the reasonableness of rent;
- i. Making housing assistance payments to owners;
- j. Conducting informal reviews and hearings at the request of applicants and participants challenging PHA administrative decisions;
- k. Administering the FSS program; and
- l. Complying with Fair Housing and Equal Opportunity (FHEO) requirements, HUD regulations and requirements, the consolidated ACC, HUD-approved applications for program funding, the PHA's administrative plan, and federal, State and local laws.

3. Owner Responsibilities

The owner is responsible for performing all the owner's obligations under the HA contract (form HUD-52641) and lease. The owner and/or owner designee (landlord, management agent) has the following responsibilities:

- 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.

The fact that an applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.

- b. Entering into a lease with the family.
- c. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.

- d. Complying with fair housing and equal opportunity requirements.
  - e. Preparing and furnishing to the PHA information required under the HAP contract.
  - f. Collecting from the family:
    - 1) Any security deposits.
    - 2) The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
    - 3) Any charges for unit damage by the family.
  - g. Enforcing tenant obligations under the lease.
  - h. Paying for utilities and services (unless paid by the family under the lease).
  - i. Providing reasonable accommodations and/or modifications to the unit occupied or to be occupied by a person with disabilities.
4. Obligations of the Family

The Obligations of the Family are stated on the Housing Voucher (form HUD-52646), in the lease, and in the program regulations for housing choice voucher holders. The Obligations of the Family include:

- a. Supplying true and complete required information including:
  - 1) Any information that the PHA or HUD determines necessary in the administration of the program, including evidence of citizenship or eligible immigration status;
  - 2) Information as requested for regular or interim reexaminations of family income and composition;
  - 3) Disclosure and verification social security numbers (SSNs); and
  - 4) Signing consent forms for obtaining and verifying information.
- b. HQS Breach by the Family:

The family is responsible for an HQS breach caused by the family.
- c. Allowing PHA Inspections:

The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.
- d. Violation of Lease:
  - 1) The family may not commit any serious or repeated violation of the lease.
  - 2) An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

e. Family Notice to Move or Lease Termination:

The family must notify the PHA and the owner before the family moves out the unit or terminates the lease on notice to the owner.

f. Owner Eviction Notice:

Promptly giving the PHA a copy of an eviction notice from the owner.

g. Use and Occupancy of Unit:

- 1) The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- 2) The composition of the assisted family residing in the unit must be approved by the PHA.
  - a) The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child.
  - b) The family must request PHA approval to add any other family member as an occupant of the unit.
  - c) No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide).
- 3) The family must promptly notify the PHA if any family member no longer resides in the unit.
- 4) If the PHA has given approval, a foster child or a live-in-aide may reside in the unit.
- 5) Members of the household may engage in legal profit-making activities within the unit, but only if those activities are incidental to the primary use of the unit as a residence.
- 6) The family must not sublease or let the unit
- 7) The family must not assign the lease or transfer the unit.

h. Absence from the unit:

- 1) 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.
- 2) The family must cooperate with the PHA for this purpose.
- 3) The family must promptly notify the PHA of absence from the unit.

i. Interest in the Unit:

The family must not own or have any interest in the unit.

j. Fraud and Other Program Violation:

The members of the family must not commit fraud, bribery, any other corrupt or criminal act in connection with assisted housing programs.

k. Other Housing Assistance:

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.

l. Crime by Household Members.

- 1) The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- 2) Criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a family's household, or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the family, is the victim.

m. Alcohol Abuse by Household Members.

The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

5. Release of Information and Consent by Applicants and Participants

As a condition of admission to or continued occupancy in the HCV program, the PHA will require the family's head of household and spouse, regardless of age, and each member of the family who is at least 18 years of age to sign one or more consent forms.

a. Consent Authorization

- 1) The assistance applicant shall submit the signed consent forms to the PHA when eligibility is being determined.
- 2) A participant shall sign and submit consent forms at the next interim or regularly scheduled income reexamination.
- 3) Both applicants and participants shall be responsible for signing and submitting consent forms by each applicable family member.

b. HUD-9886: Authorization for the Release of Information/Privacy Act Notice

Adults, 18 years of age and older will be required to sign the form HUD-9886, Authorization for Release of Information/Privacy Act Notice at time of application, admission, annual or interim reexamination.

- 1) Authorizes HUD and the PHA to request verification of salary and wages from current or previous employers
- 2) Authorizes HUD and the PHA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information
- 3) Authorizes HUD to request certain tax return information from the U.S. Social Security Administration (SSA) and the U.S. Internal Revenue Service.
- 4) Authorizes HUD and the PHA to request information from financial institutions to verify eligibility and level of benefits.
- 5) Form HUD-9886 is valid for 15 months from the date of signature.

c. Criminal Background Check

The PHA will use available resources to obtain criminal background records. These may include federal, State and local law enforcement agencies, and consumer reporting agencies.

- 1) The PHA is authorized to obtain criminal conviction records from a law enforcement agency and may use the criminal conviction records obtained from the law enforcement agency to screen applicants for admission to or continued occupancy in the HCV program.
  - 2) Sex Offender Registration
    - a) The PHA must carry out background checks necessary to determine whether a member of a household applying for admission to the HCV program is subject to a lifetime sex offender registration requirement under a State Sex Offender Registration program.
    - b) This sex offender check must be carried out with respect to the state in which the PHA is located and with respect to states where members of the applicant household are known to have resided.
  - 3) If at any time during the application process or during program participation, the PHA has a documented reasonable cause (e.g., newspaper articles, credible informants, police reports, etc.) to believe that a household member is engaged in drug-related or violent criminal activity which would pose a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA employees, the PHA is authorized to obtain a criminal background check of that household member.
  - 4) The family will not incur any costs for the drug and criminal background check.
- d. Other PHA Release of Information and Consent Forms
- 1) The PHA may develop other release of information and consent forms to be used to verify information other than the limited sources permitted by the form HUD-9886.

- 2) The PHA's release of information and consent forms may be used to obtain income, expense and other information directly from third parties (e.g., date hired, rate of pay, commissions, bonus, etc.)
- e. Subsequent Authorization to Release Information and Consent Forms
  - 1) Each head of household, spouse, or co-head, regardless of age, and each family member who is at least 18 years of age must sign form HUD-9886 annually authorizing HUD and the PHA to request information as specified in this section.
  - 2) Participants are required to sign and submit consent forms, including form HUD-9886, at the next annual or interim reexamination under the following circumstances:
    - a) When a household member turns 18 years of age;
    - b) When an adult 18 years old or older is requested to be added to the household composition.
    - c) As required by HUD or the PHA.

f. Penalties from Failing to Sign Consent Forms

If an applicant or participant, or any member of the applicant's or participant's family fails to sign and submit consent forms as required, the PHA shall deny assistance to and admission of the applicant or terminate the assistance and tenancy of the participant.

6. Family Privacy Rights

It is the PHA's policy to guard the privacy of individual applicants and residents in accordance with the Privacy Act of 1974, and to ensure the protection of those individuals' records maintained by the PHA.

- a. The PHA will not release information to other persons or entities unless the family has signed a release of information or consent form authorizing the PHA to release specific information to the person(s) or entity.
- b. The PHA may release information on amounts owed for claims paid and not reimbursed by the family.
- c. The PHA may release information as required by law to a federal or state agency, law enforcement personnel, or if the PHA has received a court subpoena.
- d. The PHA must limit use and disclosure of family information obtained through release and consent to purposes directly connected with the program administration (i.e., an adult's Enterprise Income Verification (EIV) data will be released only to that adult. A minor's EIV data may be released to adult responsible for the minor.).

## **CHAPTER 3: THE ADMINISTRATIVE PLAN**

The purpose of the Administrative Plan is for the PHA to establish policies on matters for which the PHA has discretion to establish local policies where federal regulations or laws do not direct the PHA's actions or decisions.

The PHA will comply with the City of Phillipsburg, New Jersey's Consolidated Plan and the PHA's Agency Plan. The Administrative Plan is a supporting document to the PHA's Agency Plan and shall be available for public review.

The Administrative Plan shall also comply with the regulations, requirements, notices, and guidance set forth by the HUD, the ACC, the Housing Act of 1937, as amended, Title VI of the Civil Rights Act of 1964 and other civil rights requirements, Fair Housing regulations, the PHA Personnel Policy, applicable Standard Operating Procedures, and all federal, State and local housing laws.

### **A. Adoption of the Administrative Plan**

The Administrative Plan is a formal document which must be formally adopted by the PHA's Board of Commissioners or other governing body. The Administrative Plan becomes the PHA's official policy governing the HCV program once adopted by the Board of Commissioners.

The PHA shall submit a copy of the Administrative Plan to HUD. HUD may require the PHA to change its policies in the Administrative Plan if the policies are inconsistent with program regulations or requirements. Implementation of the Administrative Plan does not require prior HUD approval.

### **B. Contents of the Administrative Plan**

The PHA Administrative Plan must cover PHA policies on these subjects:

1. Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list;
2. Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension;
3. Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families;
4. Occupancy policies, including:
  - a. Definition of what group of persons may qualify as a "family";
  - b. Definition of when a family is considered to be "continuously assisted";



- c. Standards for denying admission or terminating assistance based on criminal activity or alcohol abuse;
5. Encouraging participation by owners of suitable units located outside areas of low income or minority concentration;
6. Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit;
7. Providing information about a family to prospective owners;
8. Disapproval of owners;
9. Subsidy standards;
10. Family absence from the dwelling unit;
11. How to determine who remains in the program if a family breaks up;
12. Informal review procedures for applicants;
13. Informal hearing procedures for participants;
14. The process for establishing and revising payment standards, including policies on administering decreases in the payment standard during the HAP contract term.
15. The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract);
16. Special policies concerning special housing types in the program (e.g., use of shared housing);
17. Policies concerning payment by a family to the PHA of amounts the family owes the PHA;
18. Interim redeterminations of family income and composition;
19. Restrictions, if any, on the number of moves by a participant family;
20. Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve;
21. Procedural guidelines and performance standards for conducting required HQS inspections; and
22. PHA screening of applicants for family behavior or suitability for tenancy.
23. Policies concerning application of Small Area FMRs to project-based voucher units.

### **C. Organization of this Administrative Plan**

This Administrative Plan chronologically introduces the sequence of events experienced by a family participating in the HCV program.

The Administrative Plan begins with outreach and program plans, and proceeds to program participation, including applications and eligibility, leasing, inspections, rent reasonableness, reexaminations, and termination of assistance by the PHA.

This Administrative Plan also includes chapters about financial management, program administration staffing, and program integrity.

The Table of Contents provides a detailed listing of chapter titles and contents.

#### **D. Changes in Laws and Regulations**

All issues not addressed in this Administrative Plan related to the Section 8 HCV program are governed by the Code of Federal Regulations, HUD handbooks and guidebooks, Federal Registers, memos, notices, guidelines, and other applicable law.

In the event an applicable HUD law or regulation is modified or eliminated, the revised law or regulation shall, to the extent inconsistent with this Administrative Plan, automatically supersede this Administrative Plan.

## CHAPTER 4: NONDISCRIMINATION AND EQUAL HOUSING OPPORTUNITIES

In making decisions concerning admissions and occupancy, the PHA must comply with the Fair Housing, Equal Housing Opportunities, and civil rights requirements. The PHA is required to make the HCV program available and accessible to all eligible families. The following outlines the PHA's general policy concerning the requirements and specific actions to be taken in the admission and occupancy process.

### A. General Policy

The PHA will not discriminate against any person or family because of race, color, sex, religion, creed, national origin, age, familial status, disability/handicap, actual or perceived sexual orientation, gender identity, or marital status in the performance of its obligations during any phase of the occupancy process.

The occupancy process includes, but is not limited to, application processing, selection from the waiting list, determination of eligibility, the lease-up process, moves with continued assistance (including portability), delivery of services, treatment of participants, and denial or termination of assistance.

1. The PHA will abide by the nondiscrimination requirements of:
  - a. The Fair Housing Act of 1988, as amended, 24 CFR part 100
  - b. Title VI of the Civil Rights Act of 1964, (42 U.S.C 2000d-1), prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.
  - c. Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), prohibits discrimination on the basis of disability in federally assisted program or activities.
  - d. Title II of the Americans with Disabilities Act of 1990, (42 U.S.C. 12131-12165), prohibits discrimination based on disability in programs and activities provided or made available by public entities. HUD enforces Title II with respect to housing-related programs and activities of public entities, including public housing, housing assistance and housing referrals.
  - e. Title III of the American with Disabilities Act of 1990, (42 U.S.C. 12181-12189), prohibits discrimination based on disability in the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodations owned, leased, or operated by private entities. The Department of Justice enforces Title III of the ADA, but certain HUD recipients and private entities operating housing and community development programs are covered by Title III of the ADA.
  - f. Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), prohibits discrimination based on age in programs and activities receiving federal financial assistance.

- g. Executive Order 11063, Equal Opportunity in Housing, issued on November 20, 1962, prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
  - h. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), issued on August 11, 2000, requires each federal agency to take steps to ensure that eligible persons with limited English proficiency are provided meaningful access to all federally assisted and federally conducted programs and activities.
  - i. Executive Order 12892, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, issued on January 17, 1994, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort.
- 2. The PHA will not, on the grounds of race, color, creed, sex, religion, age, disability, national origin, actual or perceived sexual orientation, gender identity, marital status, or familial status:
  - a. Deny an eligible person or family admission to housing.
  - b. Provide housing assistance which is different than that provided to others, except for elderly and/or disabled where accessibility features may be required.
  - c. Subject a person or family to segregation or separate treatment.
  - d. Restrict a person's or family's access to any benefit enjoyed by others in connection with housing programs.
  - e. Treat a person or family differently in determining eligibility or other requirements for admission.
  - f. Deny any person or family access to the same level of services provided to others.
  - g. Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing programs.

## **B. Specific Actions**

- 1. Race, color, or national origin of the family or of PHA staff will not be a factor in the assignment of PHA staff responsible for the administration of the HCV program. The PHA will not assign employees in a way that would result in discrimination against applicants or participant families.
- 2. The PHA will ensure that all employees of the PHA are familiar with discrimination and nondiscrimination requirements.

3. Fair Housing posters and housing information with the Equal Opportunity Housing logo shall be displayed in locations throughout the PHA office in such a manner as to be easily readable by persons with disabilities. The PHA will prominently display the posters:
  - a. Each office where applications are accepted; and
  - b. Each management office, except single-family dwellings.
4. The PHA will not intimidate, threaten, or take any retaliatory action against any applicant or participant because of a person's participation in civil rights activities, or for having asserted any civil rights under statute, regulations, or requirements pursuant thereto.
5. The PHA will not deny an individual with physical disabilities an opportunity to apply for housing assistance due to inaccessible application offices.
6. The PHA will maintain information on the race, ethnicity (Hispanic or non-Hispanic), sex and age of the head of the household of all applicants and participants.
7. The PHA will not discriminate in the rental of, or otherwise make unavailable or deny, a unit to any person because of a disability of that person, a person residing in or intending to reside in that dwelling after it is rented, or made available, or any person associated with that person.
8. The PHA will not discriminate against any person in the terms, conditions, or privileges of the rental of a unit, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, a person residing in or intending to reside in that dwelling after it is rented, or made available, or any person associated with that person.
9. The PHA will not make inquiry to determine whether a person who is applying for housing assistance, a person intending to reside in the assisted unit after it is rented or made available, or any person associated with that person, has a disability, or make an inquiry as to the nature or severity of a disability of such a person.
10. Furthermore, the PHA will not inquire whether a person is "capable of living independently". However, this paragraph does not prohibit the PHA from making the following inquiries, provided that these inquiries are made of all persons, whether or not they are persons with disabilities.
  - a. Inquiry into a person's ability to meet the requirements of tenancy;
  - b. Inquiry to determine whether a person is qualified for a dwelling available only to persons with disabilities or persons with a particular type of disability;
  - c. Inquiry to determine whether a person for a unit is qualified for a priority available to persons with particular type of disability should such priority be a part of the PHA's policy;
  - d. Inquiry to determine whether a person for a dwelling is a current illegal abuser or addict of a controlled substance, except that such persons who claim eligibility as disabled due to drug or alcohol abuse alone are not eligible for housing; or

- e. Inquiry to determine whether a person has been convicted of the illegal manufacture or distribution of a controlled substance, or of any violent crime.
- 11. The PHA will not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.
- 12. The PHA will ensure that all PHA-property, including buildings, common areas, offices, and office spaces are accessible to persons with disabilities.
- 13. The PHA will post the TDD/TDY telephone number to facilitate accessibility for the hearing impaired.
- 14. To further the commitment to full compliance with applicable civil rights laws, the PHA will provide information to HCV program applicants and participants on how to complete and file a housing discrimination complaint if the applicant or participant claims illegal discrimination because of race, color, religion, sex, national origin, age, familial status, or disability.
- 15. The PHA will review its policies and procedures, at least annually, to assure compliance with all civil rights requirements.

### **C. Reasonable Accommodation and Reasonable Modifications**

The PHA will provide a reasonable accommodation, which includes a reasonable modification, as required by Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act of 1988 and Titles I and II of the Americans with Disability Act of 1990.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by HUD or any federal agency that receive financial assistance. When the program is viewed as a whole, it must be usable and accessible to persons with disabilities. The PHA will ensure that persons with disabilities have full access to the PHA's programs and services.

- 1. Reasonable Accommodation
  - a. An exception, change, adaptation, or modification to policies, rules, practices or services that may be needed by a person with a disability in order to benefit from housing, participate in activities, or perform a job.
  - b. There must be a nexus (relationship) between the requested accommodation and the individual's disability.
- 2. Reasonable Modification
  - a. A physical or structural change needed by a person with a disability to use and enjoy housing or perform a job.
  - b. A reasonable modification can be requested for individual units, the workplace, or for public/common use areas.

### 3. Disability in Respect for Reasonable Accommodations:

- a. A person who has a physical or mental impairment that substantially limits one or more major life activities of such individual;
  - 1) The term "substantially limits" suggest that the limitation is "significant" or "to a large degree" and cannot be insubstantial.
  - 2) Physical or mental impairment includes but is not limited to
    - a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
    - b) Any mental or psychological disorder, such as intellectual or development disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
    - c) The term physical or mental impairment includes but is not limited to such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual or development disabilities, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), alcoholism, and Human Immunodeficiency Virus infection.
  - 3) Major life activities are those activities/functions that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.
- b. Has a record of such an impairment; or  
Means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- c. Is regarded as having such an impairment.
  - 1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
  - 2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
  - 3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

### 4. Requesting a Reasonable Accommodation

There must be a nexus (relationship) between the individual's disability and the reasonable accommodation requested.

- a. The PHA will recognize that an individual making a reasonable accommodation request does not need to mention Section 504 of the Rehabilitation Act of 1973 or use the words "reasonable accommodation."
    - 1) The individual making the request for reasonable accommodation must make the request in a manner that a reasonable person would understand it to be a request for a reasonable accommodation.
    - 2) The PHA is not obligated to make a reasonable accommodation when it is not requested, even if the need is apparent.
  - b. The PHA will recognize reasonable accommodation requests made orally or in writing.
    - 1) If the request is made orally, the PHA will document that a request for reasonable accommodation was made (clearly noting what is being requested and the request is because of a disability) and provide a copy of the documented request to the individual.
    - 2) The PHA will give appropriate consideration to reasonable accommodation requests made orally or requested not using the PHA's preferred forms or procedures for making such requests.
  - c. A request for reasonable accommodations can be made at any time during the application process or during occupancy in the HCV program.
  - d. A request for reasonable accommodations can be made by the individual with disabilities or by someone on behalf of the individual with disabilities.
5. Determination of a Reasonable Accommodation Request

The PHA shall make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or participant with disabilities unless the PHA can demonstrate that the accommodation would impose an undue financial and administrative burden on the operation of PHA's program or fundamentally alter the nature of the program.

a. Verification Procedures

The PHA is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability.

- 1) If the disability is obvious, or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, then the PHA shall not request any additional information about the requester's disability or the disability-related need for the accommodation.
- 2) If the disability is not obvious, or otherwise known, the PHA may request reliable disability-related information that:
  - a) Is necessary to verify that the person meets the 504 definition of disability
  - b) Describes the needed accommodation, and



- c) Shows the relationship between the person's disability and the need for the requested accommodation.
- 3) The PHA may accept a statement by the person with disabilities.
- 4) The PHA may request a statement from a medical or mental health professional who treats the person for their disability:
  - a) A doctor or licensed medical/health professional
  - b) A peer support group
  - c) A social service/disability agency or counselor
  - d) A case manager
- 5) The PHA shall not impose expensive or burdensome requirements to "prove" either a disability or need for an accommodation.
- 6) The PHA will keep information regarding a person's disability confidential and will not share the information with other persons unless it is needed to make or assess a decision to grant or deny a reasonable accommodation or unless its disclosure is required by law.
- b. Determining an undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as:
  - 1) The cost of the requested accommodation,
  - 2) The financial resources of the PHA,
  - 3) The benefits that the accommodation would provide to the requester, and
  - 4) The availability of alternative accommodations that would effectively meet the requester's disability-related needs.
- c. In determining whether an accommodation would impose an undue hardship on the operation of the PHA's program, factors to be considered include:
  - 1) The overall size of the PHA's program with respect to number of employees, number and type of facilities, and size of budget;
  - 2) The type of the PHA's operation, including the composition and structure of the PHA's workforce; and
  - 3) The nature and cost of the accommodation needed.
- 6. Approval or Denial of a Request for Reasonable Accommodation
  - a. Approval of Requests for Reasonable Accommodation
    - 1) The PHA must approve the reasonable accommodation and/or make the modification unless doing so is:
      - a) Unreasonable,
      - b) An undue financial and administrative burden on the PHA's programs, or

- c) Would result in a fundamental alteration in the nature of the PHA program.
- 2) The PHA will meet with the family to discuss the approval:
  - a) How the accommodating will be provided
  - b) When it will be provided
  - c) Advise of any variations to the original request
  - d) Sign a Reasonable Accommodation Agreement form
  - e) Mail determination of notice to the family
- b. Denial of Requests for Reasonable Accommodation
  - 1) The PHA may deny a request for reasonable accommodation or modification if the request:
    - a) Was not made by or on behalf of a person with disabilities, or
    - b) There is no disability-related need for the accommodation or modification, or
    - c) The request is unreasonable.
  - 2) The PHA will meet with the family to discuss the denial:
    - a) How the determination was made
    - b) Administrative solutions
    - c) Explanation of the process of requesting an informal review/hearing or filing a complaint
    - d) Mail the determination notice to the family

## **D. Effective Communication**

To ensure effective communication with persons with limited English proficiency (LEP) or persons with disabilities who require another form of communication, such as braille or American Sign Language (ASL), the PHA will consider the following factors:

### **1. Translation of Documents**

The PHA will conduct a four-factor analysis as a framework to identify LEP persons who need language services and to what extent, what languages require document translation and interpretation services, and what languages require only interpretation services.

### **2. Communication Accessibility**

- a. The PHA will have TDD/TTY machines or an equally effective communication system accessible for persons who are hearing impaired.
- b. The PHA will provide ASL interpreters for persons who are hearing impaired if requested as a reasonable accommodation.

- c. The PHA will provide copies of legal documents and informational materials in large type or available in audio for persons who are visually impaired if requested as a reasonable accommodation.
- 3. All PHA mailings will be made available in an accessible format upon request as a reasonable accommodation.
- 4. The PHA will assist by orally reading and explaining documents for persons who are unable to read.
- 5. The PHA will assist in completing forms and other required documents for persons who are unable to write.
- 6. The PHA will ensure that all PHA documents and the following information are written and/or provided in an accessible, clear, and concise format:
  - a. Marketing and informational material.
  - b. Information regarding the application process.
  - c. Applications for admission and reexaminations (annual and interim).
  - d. All form letters and notices to the families.
  - e. The PHA's general policy regarding reasonable accommodation.
  - f. HCV briefing materials.
  - g. HCV program and any other applicable program rules.
  - h. Information regarding opening, closing, and updating the waiting list.
  - i. All information related to the family's responsibilities and rights (informal reviews/hearings, etc.).

## **CHAPTER 5: VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)**

Protects tenants and applicants, and affiliated individuals who are victims of domestic violence, dating violence, sexual assault, or stalking (collectively VAWA crimes) from being denied, evicted, or terminated from housing assistance based on acts of such violence against them

### **A. Who is Eligible for VAWA Protections**

For the purposes of VAWA, the term “tenant” shall refer to the assisted family and members of the household on the lease.

1. Only tenants who are assisted by the PHA can invoke VAWA protections that apply solely to tenants.
2. VAWA protections are not limited to women.
3. Victims of a VAWA crime are eligible for protections without regard to sex, gender identity, or sexual orientation.
4. Victims cannot be discriminated against based on any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.
5. As per the HUD’s Equal Access Rule, the VAWA protections also cover eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.
6. VAWA protections are provided to tenants regardless of citizenship or eligible immigration status.
7. Youth under the age of 18 years old living in an assisted household may invoke VAWA protections if the youth is a victim of a VAWA crime.
8. Affiliated Individual (replaced family member)
  - a. A spouse, parent, brother, sister, a child of that person, and/or an individual to whom that person stands in loco parentis; or
  - b. Any other person living in the household of that person and related to that person by blood or marriage.
9. Self-Petitioners

Noncitizens who claim to be victims of “battery or extreme cruelty” by their spouse or parent who is U.S. citizen or lawful permanent resident (LPR).
10. Live-In Aides

Are entitled to VAWA protections if they are applicants for housing assistance or if they are an affiliated individual of a tenant.

## 11. Applicants

VAWA protections also cover applicants when they are applying for admission to the HCV program.

### **B. Who is Ineligible for VAWA Protections**

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants.

1. As a reasonable accommodation, a tenant can request VAWA protections based on the grounds that the live-in aid is a victim of a VAWA crime. In addition, other reasonable accommodations may be needed on a case-by-case basis.
2. Where a guest or unassisted member is a victim of a VAWA crime, a tenant cannot be evicted or have assistance terminated on the basis of the VAWA crime of the guest or unassisted member.
3. Unassisted members who are also on the lease may qualify by way of the lease for VAWA protections.

### **C. VAWA Notice of Occupancy Rights and Certification Form**

1. The PHA shall provide the Notice of Occupancy Rights and the Certification Form to the applicant or participant no later than at each of the following times:
  - a. At the time the applicant is denied assistance or admission;
  - b. At the time the individual is provided assistance or admission;
  - c. With any notification of eviction or notification of termination of assistance; and
  - d. During the 12-month period following December 16, 2016, either during the annual reexamination or if there will be no reexamination for the participant during the first year after the rule takes effect, through other means.
2. In accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency), the PHA shall make available The Notice of Occupancy Rights and the Certification Form in multiple languages.

### **D. VAWA Notice of Occupancy Rights, HUD-5380**

The PHA will provide the VAWA Notice of Occupancy Rights without changes to the core protections and confidentiality rights in the Notice.

1. The VAWA Notice of Occupancy Rights explains the VAWA protections including the rights to confidentiality and any VAWA protection limitations.
2. The VAWA Notice of Occupancy Rights must be provided to:
  - a. Adult applicants of the HCV and Project-Based Voucher (PBV) programs; and
  - b. Each adult HCV and PBV adult participant.

## **E. VAWA Certification Form, HUD-5382**

The Certification of Domestic Violence, Dating Violence, Sexual Assault, Dating Violence, or Stalking, and Alternative Documentation form is an optional way for victims to comply with a written request for documentation about an incident or incidents of a VAWA crime.

### **1. VAWA Certification Form**

- a. Provides that the victim or someone on the victim's behalf may complete the form.
  - b. Provides a list of alternative third-party documentation to satisfy a request by a PHA.
  - c. Explains the time period for responding to a written request for documentation.
  - d. Describes the confidentiality protections under VAWA.
  - e. Requires that the victim or someone filling out the form on the victim's behalf must answer 10 numbered questions and provide a brief description of the incident(s).
  - f. Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely.
  - g. Clarifies that the date and time of incident should be completed only if known by the victim.
  - h. Requires the victim or someone filling out the form on the victim's behalf to certify to the truth and accuracy of the information being provided and explains that false information could be the basis for denial of admission or termination of assistance.
2. The PHA will advise tenant and applicants that when the HUD-5382 is submitted on the victim's behalf, the submission will take the place of the tenants or applicants submitting their own statement.

## **F. Certification or Documentation**

### **1. Acceptance of a Verbal Statement**

- a. The PHA is not required to ask for documentation when an individual presents a claim for VAWA protections.
- b. The PHA may choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence.
- c. The PHA will accept a verbal statement of an incident or incidents of a VAWA crime if the PHA was aware of the abuse and encouraged the victim to request VAWA protections.

### **2. Requesting Documentation**

The PHA may choose to request an individual to document their claim of a VAWA crime.

- a. The PHA must request the documentation in writing.

- b. Providing the victim the form HUD-5382 does not constitute a written request for the documentation, unless the form HUD-5382 is accompanied by the written notice requesting the documentation.
- c. The victim may satisfy the PHA's written request for documentation by providing any one of the following:
  - 1) Form HUD-5382; or
  - 2) A document:
    - a) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
    - b) Signed by the applicant or tenant; and
    - c) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of a VAWA crime that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking.
  - 3) A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a policy report), court, or administrative agency; or
  - 4) At the discretion of the PHA, a statement or other evidence provided by the tenant or applicant.
- 3. Time to Submit VAWA Documentation
  - a. The PHA will require submission of documentation within 14 business days after the date that the individual received the written request for documentation.
  - b. The PHA may extend this time period at its discretion.
  - c. During the 14-business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection.
- 4. Third-Party Verification

The PHA shall not require the victim to provide third-party documentation of victim status, unless:

  - a. More than one tenant or applicant provides documentation to show they are victims of a VAWA crime and the information in one person's documentation conflicts with the information in another person's documentation; or
  - b. Submitted documentation contains information that conflicts with existing information already available to the PHA.

- c. The PHA shall give the tenant or applicant 30 calendar days from the date of the written request to provide such documentation.

## **G. Limited VAWA Protections**

Nothing in this section limits the authority of the PHA, when notified of a court order, to comply with a court order with respect to:

1. The rights of access or control of property, including civil protection orders issued to protect a victim of a VAWA crime; or
2. The distribution or possession of property among members of a household.

## **H. VAWA Confidentiality**

1. The PHA shall retain in strictest confidence all information pursuant to VAWA including the fact that an individual is a victim of a VAWA crime.
2. The PHA shall not allow any individual administering assistance on behalf of the PHA, in the employ of the PHA, or any persons within the PHA's employ (e.g., contractors) to have access to VAWA confidential information unless explicitly authorized by the PHA that specifically call for these individuals to have access to the information under applicable Federal, State, or local law.
3. The PHA shall not enter the VAWA confidential information into any shared database or disclose the information to any other entity or individual, except to the extent that the disclosure is:
  - a. Requested or consented to in writing by the individual in a time-limited release;
  - b. Required for use in an eviction proceeding or hearing regarding termination of assistance; or
  - c. Otherwise required by applicable law.



## **CHAPTER 6: OUTREACH**

The goal of the PHA's outreach is to make information about the HCV program available to every eligible family and to attract a sufficient number of owners with units outside areas of high poverty or minority concentration.

### **A. Equal Opportunity**

The PHA's comprehensive outreach efforts will be accomplished in accordance with the nondiscrimination requirements of federal and state laws, and HUD guidelines for fair housing which includes:

1. Analyzing the housing market area to identify and determine the needs of the eligible population groups.
2. Avoiding outreach efforts that prefer or exclude individuals who are members of a protected class.
3. Ensuring outreach efforts include usage of media outlets, including minority media outlets, that reach eligible populations.

### **B. Family Outreach**

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA's jurisdiction and will target outreach efforts to the PHA's population.

1. The PHA will apply special outreach efforts to reach those families who are least likely to apply such as but not limited to:
  - a. Elderly
  - b. Persons with disabilities
  - c. Families with or without children
  - d. Families with or without income or assets
  - e. Families with limited English proficiency
  - f. Homeless families
  - g. Single individuals
  - h. Victims of domestic violence, dating violence, sexual assault, or stalking
  - i. Veterans of the U.S. armed forces
  - j. Involuntary displaced families

2. PHA Outreach Message:

The PHA's outreach message may include information about the HCV program, such as but not limited to:

- a. The opening and closing of the HCV waiting list.
  - b. The family may choose any unit inside the PHA's jurisdiction as long as the unit meets program requirements.
  - c. How portability works and how it may affect the family's assistance.
  - d. The tenant rent is based on the family's income and tenant-paid utilities (except telephone and cable).
  - e. A listing of rental property known to be available. These listings show addresses, shopping centers, bus lines, amenities, deposit information, etc., as provided by owners/landlords.
  - f. A map which identifies areas of low-poverty and minority concentration.
  - g. Information on known available accessible units for families that includes a member with disabilities.
3. The PHA methods of outreach to families may include but are not limited to:
- a. Postings on the PHA website
  - b. U.S. Postal mail outs
  - c. Distribute outreach materials to identified local resources such as, advocacy groups, community service groups and agencies, elements of city and county governments, and colleges and universities.
  - d. Develop easily understood and usable outreach information/materials that is expressed in simple and direct terms.
  - e. Ensure the outreach materials includes specific information on where, when and how to apply for HCV assistance and an explanation of the application procedures.
  - f. Post outreach material in places of employment, unemployment offices, Warren County/NJ Department of Human Services, Post Offices, grocery stores, churches, community halls, city and county offices, utility companies, day-care centers, Salvation Army offices, laundry facilities and senior citizen centers.
  - g. Place news stories in daily and weekly newspapers and other local and minority publications.
  - h. Request public service announcements by local radio and television stations of English and other languages common to the area.
  - i. Make oral presentations before organizations, groups and agencies that serve the elderly, disabled, homeless, and victims of VAWA crimes.
  - j. Place outreach material in places of worship/faith-based institutions, community centers, city and county bulletins and newsletters.
  - k. Encourage families to inform their friends and relatives about the HCV program.

### **C. Monitoring and Evaluating Outreach Efforts**

The PHA will establish and maintain internal documentation and monitoring procedures that will enable it to analyze the effectiveness of its outreach program.

For example, it may design an appropriate form and, as part of its application process, ask each applicant how they heard about the HCV program, especially families among the groups identified as the least likely to apply.

Such procedures will help the PHA determine the cost effectiveness of each method of outreach, as well as show where the outreach program needs to be improved, discontinued, or emphasized.

The PHA will also conduct other outreach efforts from time to time if it determines that certain categories of families are not making applications in sufficient numbers.

As needed, the PHA will take affirmative action in marketing the HCV program, to assure that opportunities for program participation are adequately publicized to families identified in the jurisdiction's Consolidated Plan as being expected to reside in the PHA's jurisdiction because of present and planned employment.

### **D. Owner/Landlord Outreach**

Without the participation of good landlords, families will not succeed in leasing up and staying leased. The PHA will strive to maintain good relations with existing owners/landlords and will encourage new owners/landlords to participate and to make units available for leasing by eligible HCV program families.

The PHA methods for outreach, recruiting, and cultivating relationships with owners and landlords may include but are not limited to:

1. Advertise and market the benefits of the HCV program to potential owners/landlords
2. U.S. Postal mail outs
3. Follow-up on owner/landlord inquiries

### **E. Expanding Greater Housing Opportunities for Families**

The PHA will encourage program participation by owners of units located outside areas of poverty and minority concentration. The families will be informed of areas of where they may lease a unit inside and outside (portability) of the PHA's jurisdiction.

1. The PHA has identified areas of low poverty and minority concentration.

The PHA considers an area of low poverty or minority concentration, an area with more than 30% of poverty or minority concentration.

2. The PHA has prepared maps that show various areas, both within and neighboring jurisdictions, with housing opportunities outside areas of poverty and minority concentration.

3. The PHA has assembled information about job opportunities, schools, and services in areas outside of poverty and minority concentration
4. The PHA's briefing packet contains either a list of owners who are willing to lease a unit, units available for lease, or other organizations that will assist families find units outside of area of poverty or minority concentration.
5. The PHA has analyzed whether voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, where such difficulties were found, the PHA has considered whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.

## CHAPTER 7: WAITING LIST AND TENANT SELECTION

When the PHA receives or acquires an allocation of new voucher funding, the PHA shall establish an application and selection process that will treat applicants fairly, consistently, and will provide an effective method for determining eligibility.

### A. Waiting List Management

1. The PHA must use a single waiting list for admission to the HCV program.
2. Opening the Waiting List

The PHA shall announce the opening of the waiting list through a public notice.

- a. The notice must comply with HUD fair housing requirements, containing the equal housing opportunity logo and non-discrimination statement in its message.
- b. The notice shall be placed in a newspaper of general circulation, in a minority publication/media, and in plain view in the application office.
- c. The notice may be posted at locations throughout the community, such as faith-based institutions, public service/government offices, social service agencies, supermarkets, homeless shelters, senior/youth/community centers, the PHA's webpage, and other social media outlets.
- d. The notice will provide a brief description of the HCV program.
- e. The notice shall contain where and when interested families can apply.
- f. The notice shall state any limitations on who may apply (i.e., working families, extremely low-income, etc.).

3. Closing the Waiting List

The PHA shall announce the closing of the waiting list through a public notice.

- a. The PHA shall announce the closing of the waiting list using the same methods as used to announce the opening of the waiting list.
- b. The closing of the waiting list may be announced at the same time as when the PHA announced the opening of the waiting list.
- c. The PHA may also announce the closing of the waiting list when the PHA determines that the existing waiting list contains an adequate pool of applicants who will most likely receive assistance within a 12 to 18-month period.
- d. The PHA may close a portion of the waiting list instead of closing the entire waiting list and may only accept applications from families qualifying for a specific local preference.

4. Organization of the Waiting List

The PHA will maintain sufficient information that permits the PHA to select applicants from the waiting list in accordance with the PHA's admission policies.

- a. At a minimum, the waiting list must contain the following information for each applicant:
    - 1) Date and time of application;
    - 2) Name of applicant;
    - 3) Family unit size (number of bedrooms for which the family qualifies under the PHA's occupancy standards);
    - 4) Race or ethnic designation of the head of household; and
    - 5) Qualifications for local preferences.
  - b. The PHA may include the following additional information:
    - 1) Names of adult members and ages of all members
    - 2) Sex and relationship of all members
    - 3) Street address and phone numbers
    - 4) Mailing address (if different from street address)
    - 5) Amount(s) and source(s) of income received by household members
    - 6) Citizenship/eligible immigration status
5. Waiting List for Different Programs
- When the PHA maintains a separate waiting list of its programs, the following regulations apply:
- a. Merger and Cross Listing
    - 1) The PHA will not merge the waiting list for tenant-based assistance with the PHA waiting list for admission to another assisted housing program, including a federal or local program.
6. Updating and Purging the Waiting List

The PHA will update and purge its waiting list to obtain current information on interested applicants and to minimize and remove applicants no longer interested in participating in the HCV program.

a. Updating the Waiting List

The PHA will update and purge its waiting list annually to ensure that it is current and accurate.

- 1) The update of the family's circumstances can be generated by the family or the PHA.
- 2) The PHA does not require interested applicants to report changes in the circumstances while on the waiting list.

- 3) The PHA will send a Section 8 HCV Waiting List Update Form, by first class mail, to last known address that the PHA has on record to each applicant on the PHA's waiting list requesting information regarding their continued interest in maintaining a place on the waiting list and to report any changes in their circumstances.
  - a) The update form will include a deadline date, 14 days from the date of the update form, by which the applicant must complete and return the update form to the PHA.
  - b) The applicant will be able to return the update form to the PHA by mail, email, fax, or in person.
  - c) If the applicant did not notify the PHA of a move as required, the PHA shall not be responsible for the applicant's failure to receive the update form.
  - d) Notification of a change in address to the U.S. Post Office or sources other than the PHA is not considered compliance with the requirements to notify the PHA.
  - e) The PHA does not accept responsibility for mail delays.
  - f) The PHA shall notify the applicant in writing if the changes reported on the update form affects the applicant's position on the waiting list or eligibility for HCV housing assistance.
- b. Removal from the Waiting List

The PHA shall remove the applicant from the waiting list if:

- 1) If the applicant fails to respond to the update form within the allotted time period.

Exceptions: Reasonable accommodations for families with includes a member with disabilities and because of a claim of a VAWA crime.
- 2) If the update form is returned marked "Addressee Unknown".
- 3) If the update form is returned with no forwarding address.
- 4) If the update form is returned with a forwarding address, the update form will be mailed to the address indicated.
  - a) The applicant will have 14 business days, from the date of the update form, to respond to the PHA.
  - b) If the applicant fails to respond to the second update form within the allotted time period, the applicant will be removed from the waiting list.
- 5) If the family requested in writing that their name be removed from the PHA waiting list.

## 7. Interest List

The PHA does not maintain an interest list when applications are not being taken.

## **B. Special Admission (Non-Waiting List)**

The PHA does not currently administer any special admission programs.

## **C. Accepting the Application**

The PHA must make available and accept applications from interested families during periods when the PHA's waiting list is open. The PHA may only accept an application for HCV housing assistance when the waiting list is opened.

### **1. Applying for Assistance**

When the waiting list is open, the applicant may submit the full application to the PHA, online.

#### **a. Online Submission**

- 1) The PHA will only accept applications completed and submitted online at [www.waitlistcheck.com/nj2860](http://www.waitlistcheck.com/nj2860) during the dates and time period indicated in the announcement of the opening of the waiting list.
- 2) The application submission date and time will be assigned by the online application program.

### **2. Completion of a Full Application**

When the applicant reaches the top of the waiting list, the PHA will:

- a. Mail the full application packet to the family and invite the family to attend an eligibility appointment.
- b. The eligibility appointments may be scheduled in by mail and will provide the applicant with at least two (2) weeks' notice.
  - 1) The PHA requires all household members 18 years of age and older to attend the appointment.
  - 2) In addition to the completed full application packet, the eligibility appointment letter will identify other information and/or documents that the applicant will be required to bring to the appointment.
  - 3) Reasonable accommodations will be made upon request for persons with disabilities.
- c. The applicant will be responsible for completing the full application packet.
  - 1) The PHA will provide assistance in the completion of the application, if requested, as a reasonable accommodation for persons with disabilities or applicants with Limited English Proficiency.
  - 2) The head of household, as well as all members of the household over the age of 18 years must sign the application including all required HUD forms.



### 3. Requirement to Attend Scheduled Interview

If the applicant is unable or cannot attend the scheduled interview, it is the applicant's responsibility to inform the PHA, in writing or by telephone, prior to the scheduled interview.

- a. The PHA will reschedule the interview and notify the applicant in writing.
- b. If the applicant fails to attend the scheduled interview and does not contact the PHA to reschedule the appointment, the application may be rejected, and the applicant may be denied admission.
- c. If the applicant misses two (2) appointments, the PHA will designate the application as inactive. The applicant will be removed from the waiting list and may reapply when the waiting list is opened.

### 4. Final Determination and Notification of Eligibility

- a. After following the verification process per Chapter 11, a final determination of eligibility will be made before inviting the family to an HCV Family Briefing session for issuance of voucher.
- b. The housing choice voucher (voucher) will not be issued before all eligibility criteria have been met.

### 5. Applicant Responsibilities

- a. Supply true, accurate, and complete information on the application and consent forms.
- b. Supply any documents and verification as requested by HUD and the PHA.
- c. Attend scheduled application appointments.
- d. Timely inform the PHA, in writing
- e. , of changes in address, or any other changes affecting their eligibility.
- f. Timely respond to requests from the PHA to update information on their application and to confirm their continued interest in applying for housing assistance.

## D. Local Preferences

The PHA may, but is not required to, establish a system of local preferences for selection of families admitted to the HCV program. The PHA's preferences will be consistent with the PHA Plan and the Consolidated Plan and will be based on local housing needs and priorities that can be documented by generally accepted data sources.

1. The PHA has elected to adopt the following as the local preferences:

| Preferences  | Rank or Point Value |
|--|---------------------|
| Residency (Town of Phillipsburg) with an income meeting the extremely low-income | Tier I              |

|  |          |
|--|----------|
| Residency (Town of Phillipsburg) whose household is one of elderly status and a household that includes a person with disabilities             | Tier II  |
| Residency - Non-residents of the Town of Phillipsburg but reside in Warren County, New Jersey, with the same preferences as Tier I and Tier II | Tier III |
| No preferences and are non-residents of Town of Phillipsburg and Warren County   | Tier IV  |

2. Selection of applicants is through a lottery process via an online portal, WaitListCheck. Tier I applicants will be selected first. Applicants selected from the waiting list must provide all required documents within fifteen (15) business days of the date of the notice from the Phillipsburg DCD office. Extenuating circumstances will be considered to provide a reasonable accommodation on a case-by-case basis.
3. Changes in Preference
 

Applicants on the PHA's waiting list who did not claim a preference when they applied may experience a change in circumstances that later qualifies them for a preference – or the reverse may occur.

  - a. The PHA will require applicants on the PHA's waiting list to report changes in the preference within 15 business days of occurrence.
  - b. If the applicant's preference status changes, the applicants retain their original date and time of application.
  - c. The applicant may move up or down on the waiting list in accordance with the changes in the preference and date and time of the application.

## **E. Selection from the Waiting List**

The PHA shall follow the following basic selection from the waiting list policies.

1. Basic Selection Policy
  - a. Applicants will be selected from the waiting list in order of date and time of the initial application with consideration given to the regulations governing income targeting as well as any adopted local preference.
  - b. Applicants who have an equal weight or ranking of preferences will be selected by date and time of application. The applicant with the earliest date and time will be selected first.
  - c. Applicants whose income is greater than 30% of the area median income may be passed on the waiting list pursuant to the income targeting requirements.

## 2. Family size

- a. The order of admission from the waiting list will not be based on family size or the family unit size for which the family qualifies under the PHA's subsidy standards.
- b. If the PHA does not have sufficient funds to subsidize the family unit size of the family at the top of the PHA's waiting list, the PHA may not skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

## F. Income Targeting

Pursuant to the Quality Housing and Work Responsibility Act (QHWRA), not less than 75% of the families admitted to the HCV program during the PHA's fiscal year from the PHA's waiting list must be extremely low-income families.

1. A PHA may admit a lower percent of extremely low-income families during a PHA's fiscal year (than otherwise required) if HUD approves the use of such lower percent by the PHA, in accordance with the PHA Plan, based on HUD's determination that:
  - a. The PHA has opened its waiting list for a reasonable time for admission of extremely low-income families residing in the same metropolitan statistical area (MSA) or non-metropolitan county, both inside and outside the PHA jurisdiction;
  - b. The PHA has provided full public notice of such opening to such families, and has conducted outreach and marketing to such families, including outreach and marketing to extremely low-income families on the Section 8 and public housing waiting lists of other PHAs with jurisdiction in the same MSA or non-metropolitan county;
  - c. There are not enough extremely low-income families on the PHA's waiting list to fill available slots in the program during any fiscal year for which use of a lower percent is approved by HUD; and
  - d. Admission of the additional very low-income families, other than extremely low-income families to the PHA's tenant-based voucher program will substantially address worst case housing needs as determined by HUD.
2. Two (2) or more PHAs in same jurisdiction may elect to be treated as a single PHA for purposes of meeting targeting goals.
3. If a family initially leases a unit outside the PHA jurisdiction under portability at admission to the HCV program, such admission shall be counted against the targeting obligation of the initial PHA (unless the receiving PHA absorbs the portable family into the receiving PHA HCV program from the point of admission).

## CHAPTER 8: BASIC ELIGIBILITY REQUIREMENTS

Pursuant to HUD regulation the PHA is permitted to admit only eligible families to the HCV Program. To be eligible, the applicant must be a family as defined in 24 CFR 5.403, must be income eligible, and must be a citizen or a noncitizen who has eligible immigration status. In addition, the family must meet the PHA's screening criteria regarding family behavior and suitability for tenancy. These requirements are outlined below.

### A. Definition of a Family

The applicant must qualify as a family. The family includes all household members, except the live-in aide and foster children/ adults, whose number and characteristics are used to calculate the housing subsidy and payments. A 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:
  - a. A family with or without children (a child is temporarily away from home because of placement in foster care is considered a member of the family).
  - b. A family that consists of a pregnant woman only, and no other persons, must be treated as a two-person family.
3. An elderly family
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age.
  - b. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.
4. A near-elderly family
  - a. A family whose head (including co-head), spouse, or sole member is person who is at least 50 years of age but below the age of 62; or
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or
  - c. One or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.
5. A disabled family
  - a. A family whose head (including co-head), spouse, or sole member is a person with a disability.
  - b. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

- c. A person with disabilities means a person who:
  - 1) Has a disability, as defined in 42 U.S.C. 423;
  - 2) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
    - a) Is expected to be of long continued and indefinite duration;
    - b) Substantially impedes his or her ability to live independently, and
    - c) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - 3) Has a developmental disability as defined in 42 U.S.C. 6001;
  - 4) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
  - 5) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
  - 6) Means "individual with handicaps", as defined in 24 CFR 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.
- 6. A displaced family

A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief.
- 7. The remaining member of a tenant family

A family member of an assisted tenant family who remains in the unit when other members of the family have left the unit. A remaining family member is never a live-in aide.
- 8. A family includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.
- 9. Joint Custody of Children
  - a. Children who are subject to a joint custody agreement but live in the unit at least 51% of the time will be considered members of the household.
  - b. The PHA defines 51% of the time as 183 days.

## **B. Definition of a Household**

The household includes everyone who will live in the assisted unit. The household members are used to determine the unit size. The PHA may give approval of a live-in aide or foster child(ren)/adult(s) to reside in the unit.

### **1. Live-In Aide**

A family that consists of one or more elderly, near elderly or disabled persons may request that the PHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation to make the HCV program accessible to and usable by the family member with a disability.

- a. A live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
  - 1) Is determined by the PHA to be essential to the care and well-being of the person or persons;
  - 2) Is not obligated for support of the person or persons; and
  - 3) Would not be living in the unit except to provide necessary supportive services.
- b. A relative may be a live-in aide, if the relative meets the definition of a live-in aide.
- c. Prior to the PHA approving the request for a person to reside in the assisted unit as a live-in aide:
  - 1) The family must identify a specific person as the live-in aide. The PHA may not approve an unidentified live-in aide.
  - 2) The person must meet the criteria of the definition of a live-in aide.
  - 3) PHA verification of the live-in aide
    - a) The PHA will verify the need for a live-in aide's services from qualified medical, health, or social services/rehabilitation specialists, unless the need is obvious.
    - b) Verification of legal requirement for support includes marriage certificates, court ordered guardianship, or other legal documents requiring the potential live-in aide to be legally responsible for support of the person they care for.
    - c) The PHA will verify the current residency of the potential live-in aide as being elsewhere through prior landlords, rental agreements or leases, rental receipts, utility bills in the potential live-in aide's name for another address, driver's license or other government issued ID, etc.
    - d) For a potential relative live in aide, the PHA will verify whether the relative previously lived outside the unit and moved back solely to take care of the family member.

- d. The person must meet all the PHA's screening criteria, including the criminal history check.
- e. The PHA will generate:
  - 1) The EIV Former Tenant and Existing Tenant Reports for any SSA matches involving another PHA or Multifamily program for the person.
  - 2) The Debts Owed to PHAs Report to determine if the person owes a debt to the PHA, another PHA, or Multifamily program.
    - a) The PHA will follow-up on any issues identified.
    - b) The PHA will maintain a report and document the family file.
- f. At any time, the PHA may refuse to approve a particular person as a live-in aide or may withdraw approval if:
  - 1) The person commits fraud, bribery or any other corrupt or criminal acts in connection with any federal housing program; or
  - 2) The person commits drug-related criminal activity or violent criminal activity.
- g. A live-in aide is a household member, not a member of the assisted family, and therefore, the live-in aide only qualifies for occupancy in the assisted unit only as long as the family member needing the supportive services requires the live-in aide's services and remains a family member.
- h. The live-in aide may not qualify for continued occupancy as a remaining family member.
- i. The PHA will not convert the live-in aide to a family member.
- j. The PHA may only approve one additional bedroom for the live-in aide.
- k. Although a live-in aide may have PHA-approved family member(s) live with them in the assisted unit, the PHA must not provide additional bedrooms for the family members of the live-in aide.
- l. The PHA must ensure that HQS will not be violated and that there will not be more than two (2) people per bedroom or living/sleeping space.
- m. If the approval of additional family members of the live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved.
- n. Income of the live-in aide is excluded from annual income.
- o. Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides.

## 2. Foster Children and Foster Adults

Foster children are children that are in the legal guardianship or custody of a State, county, or private adoption or foster care agency, but are cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster adult is usually an adult with a disability who is unrelated to the family and who is unable to live alone.

- a. The PHA must receive documentation from the custodial agency responsible for the placement of the foster child(ren)/adult(s) prior to PHA approval of the foster child(ren)/adult(s) to reside in the assisted unit.
- b. HQS Violations
  - 1) The PHA must ensure that HQS will not be violated and that there will not be more than two (2) people per bedroom or living/sleeping space.
  - 2) The PHA may not approve the addition of a foster child(ren)/adult to live in the assisted unit if the approval would result in a violation of HQS.
  - 3) As a reasonable accommodation, the PHA may issue the family a voucher to move to make the program accessible to and usable by the family member who is a person with disabilities.

## C. Income Eligibility

The applicant's annual income may not exceed the HUD established income limits by family size for the area in which the PHA is located. HUD income limits are published annually and are generally effective on the date of publication.

The applicant's annual income is compared to the applicable HUD income limit to determine eligibility. Income limits apply only at time of admission and are not applicable for continued occupancy.

1. To be eligible, the applicant family's annual income, at time of admission to the HCV program, must fall within one of the following categories:
  - a. An extremely low-income family: A very low-income family whose annual income does not exceed the higher of:
    - 1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the U.S.); or
    - 2) Thirty (30) percent of the area median income, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.



- b. A very low-income family: A family whose annual income does not exceed 50% of the area median family income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.
- c. A low-income family: A family whose annual income does not exceed 80% of the area median income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes and who meets one of the following additional criteria:
  - 1) Continuously assisted under the 1937 Housing Act;
    - a) An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the HCV Program.
    - b) The PHA has established the following instances when the family may be considered to be continuously assisted despite a brief interruption or break between occupancy in one program and admission to the HCV program:
      - (1) Temporary residence (180 days or less) in a shelter due to being a victim of a VAWA crime.
  - 2) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 24 CFR 248.101;
  - 3) A low-income non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project; or
  - 4) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
- 2. The family may only use the voucher to lease a unit in an area where the family is income eligible at admission to the program.
  - a. If the PHA has more than one set of income limits within its jurisdiction should use the highest income limit within its jurisdiction when determining initial household eligibility.
  - b. If the PHA has more than one set of income limits within its jurisdiction, a family whose income is above the limits in one or more areas of the PHA's jurisdiction may only lease in the area where the family is income eligible.
- 3. A family utilizing their portability option when first admitted to the HCV program must not exceed the income limits of the receiving PHA.

4. Families who are moving into a receiving PHA's jurisdiction under portability and are already program participants do not have to meet the income eligibility requirement of the receiving PHA.
5. Income limit restrictions do not apply to families transferring units within the PHA's jurisdiction under the HCV program.

#### **D. Citizenship and Eligible Immigration Status**

Section 214 of the Housing and Community Development Act of 1980 as amended, restricts financial assistance to U.S. citizens or nationals (persons who owes permanent allegiance to the U.S., for example, as a result of birth in a U.S. territory or possession) and to noncitizens who have eligible immigration status.

1. A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to be a U.S. citizen, national, or be a noncitizen with eligible immigration status.
2. A mixed family includes family members who are U.S. citizens, nationals or have eligible immigration status, and family members who do not contend to have eligible immigration status.
  - a. Mixed families receive prorated assistance based on the percentage of family members who qualify for assistance.
  - b. 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.
  - c. There are no HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. However, if the PHA's jurisdiction is in a state where state law prohibits a single ineligible family from executing a lease or other legally binding documents, the family may not be admitted into the HCV program.
3. Declaration of Citizenship or Eligible Immigration Status

Each family member who contends to be a U.S. citizen, national, or a noncitizen with eligible immigration status must submit a written declaration signed under penalty of perjury by which the family member declares whether he or she is a U.S. citizen, national, or a noncitizen with eligible immigration status.

  - a. For each adult the declaration must be signed by the adult.
  - b. For each child, the declaration must be signed by an adult residing in the assisted unit who is responsible for the child.
4. Each family member, regardless of age, must submit evidence of citizenship or eligible noncitizen status.
  - a. U.S. citizens and nationals:
    - 1) The evidence consists of a signed declaration of U.S. citizenship or U.S. nationality.

- 2) The PHA will also request other verification such as a U.S. passport, birth certificate, or other appropriate documentation as specified by HUD or the PHA.
- b. Noncitizens who are 62 years of age or older or will be 62 years of age or older and receiving assistance on September 30, 1996, or applying for assistance on or after September 30, 1996:
  - 1) A signed declaration of eligible immigration status; and
  - 2) Proof of age document.
- c. For all other noncitizens
  - 1) A signed declaration of eligible immigration status;
  - 2) A signed verification consent form; and
  - 3) Must fall in one of the following categories of eligible immigration status:
    - a) A noncitizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).
    - b) A non-citizen who entered the U.S. before January 1, 1972, (or such later date as enacted by law), and who:
      - (1) Has continuously maintained residence in the U.S. since then; and
      - (2) Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.
    - c) A non-citizen who is lawfully present in the United States as a result of:
      - (1) Refugee status, including those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207); or
      - (2) The granting of asylum (which has not been terminated (section 208); or
      - (3) The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution or fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.
    - d) A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).
    - e) A non-citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation (section 243(h)) (threat to life or freedom).

- f) A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).
  - g) An alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.
- 4) Acceptable Original U.S. Citizenship and Immigration Service (CIS) Unexpired Documents
- a) Form I-551 "Permanent Resident Card"
  - b) Form I-94 Arrival-Departure Record annotated with one of the following:
    - (1) "Admitted as a Refugee Pursuant to Section 207"
    - (2) "Section 208" or "Asylum"
    - (3) "Section 243(h)" or "Deportation stayed by Attorney General"
    - (4) "Paroled Pursuant to 9 CFR Section 221 (d)(5) of the INS"
  - c) Form I-94 Arrival-Departure Record with no annotation accompanied by:
    - (1) A final court decision granting asylum (but only if no appeal is taken);
    - (2) A letter from a DHS asylum officer granting asylum (if application is filed on or after 10/1/90) or from an DHS district director granting asylum (application filed before 10/1/90);
    - (3) A court decision granting withholding of deportation; or
    - (4) A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
  - d) Form I-9 Employment Eligibility Verification annotated with:
    - (1) Acceptable document from List A or,
    - (2) Combination of one selection from List B and one selection from List C
  - e) Form I-360 VAWA Self-Petition
  - f) Form I-130 Family-Based Visa Petition
  - g) Form I-797 Notice of Action
  - h) A receipt issued by DHS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or

- i) Other acceptable evidence. If other documents are determined by DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the federal register.

d. Verification Consent Form

Each noncitizen who declares eligible immigration status (except for certain noncitizens who are 62 years of age or older as describe in paragraph 4b of this section) must sign a verification consent form as follows:

- 1) For each adult, the form must be signed by the adult.
- 2) For each child, the form must be signed by an adult residing in the assisted unit who is responsible for the child.

5. Ineligible Immigration Status

If one or more family members do not contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance despite the fact that no declaration or documentation of eligible status has been submitted.

- a. The family must identify in writing, to the PHA, the family member (or members) who will elect not to contend that he or she has eligible immigration status.
- b. 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.

**E. Mandatory Disclosure of Social Security Numbers (SSNs)**

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended). The PHA, to the extent possible, will keep the collection, maintenance, use, dissemination, income information, and any other information derived from the SSNs in compliance with the Federal Privacy Act and all other provisions of federal, state, and local laws.

As a condition of initial and continued eligibility, all applicants and families (including all household members – live-in aides, foster children/adults) must disclose the SSNs assigned to them by the SSA.

- 1. An exception for the disclosure of SSNs includes the following:
  - a. Those individuals who do not contend to have eligible immigration status and have not been assigned an SSN.
  - b. Existing program participants, who as of January 31, 2010, were 62 years of age or older. This exemption continues even if the individual moves to a new public housing assisted unit.
  - c. Those who have not been assigned an SSN.

2. Children under 6 added to the applicant family

- a. If a child under the age of six (6) was added to the applicant family within six months of voucher issuance, the PHA may admit the applicant family to the HCV program before the SSN documentation has been submitted.
- b. The PHA will grant the family 90 days from the date of admission, which is the HAP contract effective date, to provide the required SSN documentation.
- c. The PHA will allow one additional 90-day period 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 the control of the applicant family.
  - 1) Examples of circumstances outside the control of the applicant include but are not limited to:
    - a) Delayed processing of SSN application by SSA
    - b) Death in family
    - c) Natural disaster
    - d) Fire
  - 2) If the applicant fails to produce the SSN documentation required within the required time period, the PHA must deny admission.

3. Individuals without an assigned SSN

- a. Examples of individuals who may not have an SSA-assigned SSN are listed below. This list is not all-inclusive.
  - 1) U.S. newborn children (eligible citizens - will be issued an SSN upon SSA confirmation of birth).
  - 2) Noncitizens lawfully present in the U.S. (ineligible noncitizens – individuals who will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by the law to provide an SSN to receive general assistance benefits that they already have qualified for).
  - 3) Noncitizen unlawfully present in the U.S. (ineligible noncitizens – these individuals cannot be assigned an SSN).
- b. The PHA shall require that a citizen or noncitizen lawfully present in the U.S. who state that they have not been assigned an SSN by the SSA to make such declaration in writing and under penalty of perjury. The self-declaration shall be maintained in the family file.
- c. A household member who does not have an SSN must certify that they do not, in fact, have an SSN.

4. Penalties for applicant failure to disclose and/or provide documentation of the SSN

The following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

- a. PHA shall deny the eligibility of an applicant if each member of the household who is required to disclose their SSN fails to disclose and/or provide documentation of their individual SSN.
  - b. If the applicant family is otherwise eligible to participate in the HCV program, the PHA shall allow the family to maintain their position on the waiting list for a period of 30 days to permit the family the opportunity to obtain and disclose the required SSN information. During this period, if a voucher becomes available and the household members have not disclosed their SSN, PHA shall offer the available voucher to the next eligible applicant family on the waiting list.
5. Individuals who previously declared to have eligible citizenship or eligible immigration status may not change their 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 the SSN requirements.

**F. Restriction on Students of Higher Education Eligibility**

Restriction on assistance to students enrolled in an institution of higher education. The PHA must restrict assistance to students enrolled in an institution of higher education who do not reside with their parents. The PHA will apply this regulation regardless if the student is considered a full-time or part-time student.

1. No assistance shall be provided to any individual student enrolled in an institution of higher education who:

- a. Is under 24 years of age;
- b. Is not an U.S. military veteran;

For purposes of the student eligibility restrictions, the PHA has adopted the term "veteran" as used by the Department of Veterans Affairs (38 U.S.C. 101(2)): (2) the term "veterans" means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

- c. Is unmarried;
- d. Does not have a dependent child;

A dependent child for student eligibility restrictions has the same meaning as provided at 24 CFR 5.603, which states a dependent must be a member (must reside in the student family household) of the assisted family, who is under the age of 18 years of age, or person with a disability, or is a full-time student, other than the head of household, spouse, foster child/adult, or live-in aide.

- e. Is not a person with disabilities, and was not receiving Section 8 assistance as of November 30, 2005;

- f. Is not otherwise individually eligible or has parents who individually or jointly are not eligible on the basis of income to receive assistance.

For purposes of the student eligibility restrictions, and consistent with longstanding HUD policy regarding eligibility for the section 8 programs, the term "parents" means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.).

## 2. Independent Student

HUD's definition of independent student now conforms with the updated Section 480(d) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1087vv(d) definition:

- a. The individual is 24 years of age or older by December 31 of the award year;
- b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older;
- c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- d. The individual is a veteran of the Armed Forces of the U.S. or is currently servicing on active duty in the Armed Forces for other than training purposes;
- e. The individual is a graduate or professional student;
- f. The individual is a married individual;
- g. The individual has legal dependents other than a spouse;
- h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth or as an unaccompanied at risk of homelessness, and self-supporting by:
  - 1) A local educational agency homeless liaison,
  - 2) The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director,
  - 3) The director of a program funded under subtitle B of the title IV of the McKinney-Bento Homeless Assistance Act,
  - 4) A financial aid administrator
- i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
- j. Vulnerable Youth
  - 1) Unaccompanied homeless youth, at risk of being homeless youth, and youth who have aged out of the foster system
  - 2) Those who meet the independent student definition in b), c) and h)



- 3) Once the PHA has determined an individual meets the definition of “vulnerable youth” no other verification is needed to determine an individual is a “independent student” for the purposes of using only the student’s income for determining eligibility for Section 8.
3. Institution of Higher Education

The PHA shall use the definition of institution of higher education as defined from 20 U.S.C. 1001 and 20 U.S.C. 1002.
4. Prohibition of assistance to noncitizen students. The PHA must prohibit assistance to noncitizen students even to those students with eligible immigration status.
  - a. If the noncitizen student is accompanied by a noncitizen spouse and/or noncitizen minor child(ren), the noncitizen student, noncitizen spouse, and/or noncitizen minor children are ineligible to receive assistance.
  - b. If the noncitizen student and noncitizen spouse have citizen children, the noncitizen student, noncitizen spouse, and citizen children are ineligible for assistance.
  - c. If the noncitizen student has a citizen spouse, the citizen spouse and children, if any, are eligible for assistance. The assistance would be prorated.

## **G. Family Screening**

The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy.

### **1. Owner Screening Responsibilities**

The PHA must inform the owner that screening and selection of the family to occupy the owner’s unit is the responsibility of the owner.

- a. The owner is responsible for screening families on the basis of their tenancy.
- b. The owner screening of the family’s background may include but is not limited to the family’s:
  - 1) Payment of rent and utility bills.
  - 2) Caring for a unit and premises.
  - 3) Respecting the rights of other residents to the peaceful enjoyment of their housing.
  - 4) Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others.
  - 5) Compliance with other essential conditions of tenancy.
- c. The PHA must give the family a statement of the PHA’s policy on the information the PHA will provide to the owner.
  - 1) The statement must be included in the family’s briefing informational packet.

- 2) The policy must provide that the PHA will give the same type of information to all families and to all owners.
- 3) The PHA will not breach the confidentiality of a victim of domestic violence, dating violence, sexual assault, or stalking.
- d. Upon receiving a written request from a prospective owner/landlord, the PHA will release:
  - 1) The family's current and prior address, as shown in PHA records; and
  - 2) The name and address, if known to the PHA, of the landlord at the family's current and prior address.
2. PHA Screening Responsibilities
  - a. PHA Screening for Eligibility

The PHA will screen for the following eligibility factors:

    - 1) Citizenship
    - 2) HUD-income limits.
    - 3) Disclosure of SSNs
    - 4) Students of higher education eligibility
    - 5) Criminal history
    - 6) Previous evictions and/or terminations from another PHA
    - 7) Debts owed to another PHA
  - b. PHA Screening for Drug-Related Criminal Activity and Criminal Activity

The PHA will conduct drug-related criminal activity and criminal background check on each member of the household 18 years of age and over from local and state law enforcement agencies and FBI criminal records prior to determining eligibility.

    - 1) Each member of the household 18 years of age and over must execute a written authorization for the PHA to obtain drug-related criminal activity and criminal activity records from the local and state law enforcement agencies and FBI criminal records.
      - a) Based on the identifiers submitted (name, sex, race, date of birth and SSN), the law enforcement agency will provide the PHA with any criminal history, including conviction record information, and outstanding warrants that are found on the law enforcement agency computerized criminal history database and the appropriate crime information center.
      - b) The law enforcement agency may also search the National Crime Information Center (NCIC) for criminal information.

- c) If a record exists, the law enforcement agency will notify the PHA that such information was found and will provide the PHA with a copy of the information.
  - 2) The PHA will not utilize a consumer reporting agency to obtain criminal reports.
  - 3) Refusal of members of the household 18 years of age and over to authorize a drug and criminal activity background check is grounds for denial of eligibility.
  - 4) If members of the household 18 years of age and over disputes or contests the criminal history report received by the PHA, the PHA may determine that a fingerprint check is necessary.
3. The PHA shall apply the same screening policies for families moving with continued assistance.

## CHAPTER 9: DENIAL OF ADMISSIONS

The PHA will determine the eligibility for admission of HCV assistance for each applicant.

### A. Denial of Admission Because of the Family's Action or Failure to Act

The PHA will deny an applicant's admission to the HCV program for program violations that are identified as grounds for denial of admission.

1. Denial of admission may also include:
  - a. Denying listing on the PHA's waiting list.
  - b. Denying or withdrawing a voucher.
  - c. Refusing to enter into a HAP contract or approve a lease.
  - d. Refusing to process or provide assistance under portability procedures.
2. The PHA must deny admissions for an applicant:
  - a. The applicant does not meet the income eligibility criteria (e.g., the applicant's annual income exceeds the HUD established income limits by family size for the area in which the PHA is located).
  - b. If any member of the family fails or refuses to sign and submit consent forms (i.e., non-citizen status, form HUD-9886 Authorization for the Release of Information/Privacy Act Notice, and other consent forms).
  - c. If the family fails to submit required evidence of citizenship or eligible immigration status.
  - d. If the family is determined ineligible due to lack of citizenship or eligible immigration status, the family may request an appeal to CIS.
  - e. If the family fails to disclose SSNs for all household members.
  - f. If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
3. The PHA has the authority to deny admission to an applicant:
  - a. If the family fails to supply any information or documentation that is determined necessary by the PHA or HUD in the administration of the program.
  - b. If the applicant provides information that is not true or complete.
  - c. If any member of the family has been evicted from federally assisted housing in the last five (5) years.
  - d. If the PHA has ever terminated assistance under the HCV program for any member of the family.
  - e. If any member of the family has committed fraud, bribery or any other corrupt or criminal act in connection with any federally assisted housing program.

- f. If the family currently owes rent or other amounts to the PHA or another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- g. If any member of the family has not reimbursed any PHA for amounts paid to an owner/landlord under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- h. If the family breaches an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA.
  - 1) The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA.
  - 2) The PHA may prescribe the terms of the agreement.
- i. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.

## **B. Denial of Admission for Criminal Activity and Alcohol Abuse**

HUD regulations allows the PHA to prohibit admission for certain criminal activities, including alcohol abuse, or based on the preponderance of evidence that a household member has engaged in such activities.

1. The PHA will deny admission to the HCV program when:
  - a. A household member has been evicted from federally assisted housing within the last three (3) years for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:
    - 1) That the evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
    - 2) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).
  - b. Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
    - 1) During the screening process, the PHA will request for law enforcement to perform a criminal background check to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and in other States where the household members are known to reside.
    - 2) The PHA will use the Dru Sjodin National Sex Offender Public Website ([www.nsopw.gov](http://www.nsopw.gov)) to search for a household member's sex offender registration. NSOPW is in partnership between the U.S. Department of Justice and State, territorial, and tribal governments.

- c. Any household member has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing (including the building or complex in which the unit is located and associated common areas and grounds).
  - d. The PHA determines that any household member is currently engaging in illegal use of a drug or the PHA has determined that it has reasonable cause to believe that a household member's illegal drug or alcohol abuse or pattern of illegal drug or alcohol abuse may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. However, the PHA may admit the household if the PHA determines:
    - 1) Such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
    - 2) For this purpose, the PHA may require the applicant to submit evidence of the household member's current participation in, or successful completion of a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
2. Evidence of criminal activity

The PHA may deny admission to the HCV program for criminal activity by a household member as authorized if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been convicted for such activity.
3. The PHA has the authority to prohibit admission of a household to the HCV program if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission:
  - a. A drug-related criminal activity;
  - b. A violent criminal activity;
  - c. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
  - d. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).
4. The PHA has established the following standards to be applied as appropriate, for drug-related criminal activity, other criminal activity, and alcohol abuse concerning denial of admission:
  - a. The PHA has determined a "pattern" as at least two (2) drug or alcohol related criminal offenses within the three (3) year period prior to application for HCV assistance.

- b. The PHA shall consider a reasonable time before admission to the HCV program as three (3) years after the date of the most recent criminal conviction of any household member and five (5) years after the date of the most recent violent criminal conviction of any household member.
- c. Evidence of criminal activity shall be defined as a preponderance of evidence for criminal activity.
- d. Currently engaging in illegal use of a drug shall be defined as within 90 days from the date the PHA discovered the use of the illegal drug.
  - 1) This includes the use of state legalized marijuana for medical or recreational use.
  - 2) The Controlled Substances Act (CSA) list marijuana as a Schedule 1 drug.
  - 3) Federal regulations require the PHA to deny admission to persons based on the illegal use of a controlled substance.
- e. Reasonable cause shall be determined by a preponderance of illegal use of a drug charge or other criminal activity.
- f. The PHA may determine the use of an illegal drug through preponderance of a drug-related charge.
- g. The PHA shall determine involvement in criminal activity through the preponderance for a criminal activity.
- h. The time period of ineligibility for admission for other drug-related or other criminal activities shall be three (3) years from the date of the conviction.
- i. There is no time period concerning the conviction of a drug-related charge for manufacturing, production, or distribution of methamphetamine on the premises of federally assisted housing. Such household member(s) being convicted of this offense will always be denied admission.

### **C. Consideration of Circumstances before Denial of Admission**

The PHA may consider all specific circumstances of each application in determining whether the PHA will select and house applicants in accordance with the following preferences and priorities, in the order listed:

1. Limitations on Admission
  - a. Types of developments and units available;
  - b. Occupancy Standards (limitation on the minimum and maximum number of household members permitted to live in units of specified sizes).
2. Selection Preferences, as follows, in the order listed.

Circumstances the PHA may consider include but are not limited to:

- a. The seriousness of the case.
- b. The extent of participation or culpability of individual family members.

- c. Mitigating circumstance related to the disability of a family member.
  - d. If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation.
  - e. The effects of denial or termination of assistance on other family members who were not involved in the action or failure.
  - f. Participation in or completion of successful rehabilitation of household member for illegal use of drugs or alcohol abuse who is no longer engaged in such behavior.
  - g. The likelihood of reoccurrence.
  - h. Age at the time of the criminal activity.
  - i. Length of time since conviction.
- 3. The PHA's denial of admission actions will be consistent with Fair Housing and Equal Opportunity provisions and protections for victims of VAWA crimes.
  - 4. The PHA may impose, as a condition of admission to the HCV program 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.



## CHAPTER 10: DETERMINATION OF INCOME

The PHA will not devise or implement income or rent determination, verification, or other related policies or procedures in a way that discriminates against persons on the basis of race, color, national origin, sex, religion, familial status, and perceived or actual disability.

### A. Annual Income

Income is defined by HUD regulations and is further interpreted in HUD notices and memorandums that must be followed. However, there are policy decisions that are needed in order to assure consistent interpretation of HUD regulations.

1. Annual income is all amounts, monetary or not, that:
  - a. Go to, or on behalf of, the family head of household, spouse, or co-head (including temporarily absent members) or to any other family member; or
  - b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; or
  - c. Annual income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access; and
  - d. Which are not specifically excluded by HUD regulations.
2. Annual income is used to determine whether an applicant family is within the HUD income limits.

### B. Income Inclusions

Annual income includes but is not limited to:

#### 1. Income of Temporarily Absent Household Members

In accordance with HUD regulations in calculating annual and adjusted income, the PHA must count all income of family members whom the PHA has approved to reside in the unit, even if they are temporarily absent.

- a. The PHA will consider an absence anticipated to last less than 60 days to be "temporary" unless the head of household can provide verification that the family member is permanently absent.
- b. Income of family members who are permanently absent from the household will not be counted.

#### 2. Earned Income

Earned income is the full (gross) amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

- a. Other Wages  
Wages and salary received from private or public sources (other than military pay and federal wages).
  - b. PHA wages  
Compensation earned through work performed for the PHA.
  - c. Federal Wages  
Compensation received from federal government employment, which includes federal government agencies and instrumentalities.
  - d. Military Pay  
All regular pay, special pay, and allowances of a member of the Armed Forces (Army, Navy, Air Force, Marines, Coast Guard) including National Guard and Reserve units.
3. Net Income from Operation of a Business or from Self-Employment
- a. Net income from a professional or business operation less expenses incurred.
  - b. Deductions from business income can include business vehicle expenses, supplies and materials, staff salary and benefits, depreciation of assets.
  - c. Expenditures for expansion or amortization of capital indebtedness are not used as deductions from income.
  - d. Straight-line depreciation of assets is an allowable expense and can be verified through examination of the income tax forms filed for the business or financial statements.
  - e. Similarly, the accounting records and financial statements can be used to determine the cash or assets invested in the business.
    - 1) This information can be used to determine whether or not a withdrawal is a reimbursement of investments in the business.
    - 2) If a business is co-owned by someone outside the household, financial statements and income tax returns can provide information to determine the level of net income to be attributed to the family from part ownership of the business.
  - f. Business expansion includes substantially increasing the size of the business or branching out into adjacent areas that are not part of the original operation.
  - g. Any withdrawals of cash or assets from the business will be considered income unless the withdrawal is reimbursements of cash or assets invested in the operation by the family.
4. Interest, dividends, and Other Net Income of Any Kind from Real or Personal Property.
- a. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income.

- b. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations.
- c. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.
- d. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

## 5. Periodic Payments and Allowances

Period payments are income sources received on a regular basis. Period payments include but are not limited to the gross amount received from:

- a. Social Security (SS)
- b. Supplemental Security Income (SSI)
- c. Annuities

Annuities may provide for either fixed or variable payment.

- 1) For variable payments, the PHA will evaluate historical information to determine the approximate anticipated payment amount for the next twelve (12) month period. This annualized income may be adjusted based on significant changes from the anticipated income.
  - 2) The holder of an annuity may withdraw the funds at any time before maturity but will pay a penalty for early withdrawal. Verification of the penalty amount may be obtained from the company holding the annuity and should be deducted from the total distribution before determining asset or income amounts. Monthly or periodic regular annuity payments are counted, as income while the principal of the annuity remains an asset until fully liquidated. Verification of any annuity expenses will be obtained from the annuity provider.
- d. Insurance Policies
  - e. Retirement Funds
  - f. Pensions
  - g. Disability or Death Benefits
  - h. Other Types of Periodic Receipts
  - i. The withdrawal of cash from an investment that is received as periodic payments (i.e., 401K, IRA) should be counted as income unless the family can document and the PHA verifies that amounts withdrawn are reimbursement of amounts invested. When a family makes a withdrawal from an account in which it has made an investment (such as an annuity or IRA), the withdrawals count as income only after the amount invested

has been totally paid out.

6. Payments in Lieu of Earnings

When payments in lieu of earnings cannot be anticipated for the twelve (12) months following examination, annualize the payments in lieu of earnings and conduct an interim reexamination when the income changes.

Examples of payments in lieu of earnings may include:

- a. Unemployment
- b. Disability payment
- c. Workers' Compensation
- d. Severance Pay

7. Welfare/Public Assistance

a. Public assistance includes:

- 1) Temporary Assistance to Needy Families (TANF); and
- 2) General Assistance.

b. Special calculations must be made for benefits received in "as paid" State or local programs.

- 1) "As paid" programs are those in which the family receives a specific amount for shelter and utilities and the amount is adjusted based upon the actual amount the family pays for shelter and utilities.
- 2) In "as paid" programs, the amount of welfare assistance income shall consist of:
  - a) The amount of the grant exclusive of the amount specifically designated for shelter and utilities; plus
  - b) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount counted, as income is the actual amount received.

8. Imputed Welfare Income

The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

- a. A specified welfare benefit reduction is 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:
  - 1) Fraud by a family member in connection with the welfare program; or

- 2) Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
  - b. A specified welfare benefit reduction does not include a reduction or termination of welfare benefits by the welfare agency:
    - 1) At expiration of a lifetime or other time limit on the payment of welfare benefits;
    - 2) 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
    - 3) Because a family member has not complied with other welfare agency requirements.
  - c. Before adjusting the welfare benefits, the PHA will request, by third-party written verification, the welfare agency to verify:
    - 1) The reason for the welfare benefit reduction.
    - 2) The amount and term of any specified welfare benefit reduction for a family member.
  - d. During the term of the welfare benefit reduction and as determined at the PHA's interim or regular reexamination, the PHA will include in the family's annual income the amount of imputed welfare income, plus the total amount of the family's other annual income.
  - e. The PHA will offset additional income from other sources received by the family member after the welfare sanction has been 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.
  - f. If the family disputes that the PHA has not correctly calculated the amount of the imputed welfare income in accordance with HUD requirements, the family will be offered an opportunity for an informal hearing.
  - g. The PHA will not include imputed welfare income in annual income if the family was not receiving housing assistance at the time of the sanction.
9. Periodic Payments and Determinable Allowances
  - a. 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. The lump sum payment may be treated as an asset.
  - b. If benefits (such as Social Security or Veteran's benefits) are reduced due to a prior overpayment, the PHA will use the actual amount of the current allocation (before withholding for medical premiums).

- c. If benefits (such as Social Security or Veteran's benefits) are reduced due to other withholding, such as an IRS garnishment or child support garnishment, the PHA will use the full award amount.

#### 10. Alimony and Child Support

The full amount of alimony and child support payments are included in the calculation of annual income.

- a. Verification of the amounts can be found in the final divorce decree, settlement papers, or may be obtained from the court if payments are made to and distributed by the court.
- b. If the family asserts that they are not receiving the full amounts due, the family must present documentation of collection efforts or other satisfactory documentation that verifies the funds are not paid in full.
- c. If the payee has filed a claim in court for non-payment or under-payment, the PHA may use those documents for verification.
- d. Until the PHA obtains verification of the lesser amount, the full amount of alimony and child support payments will be included in income.
- e. In cases where there is no award by the court, the PHA must seek verification from the provider of the amounts paid, view canceled checks or money order receipts and, for alimony, the provider's income tax returns, if available.
- f. Information from the provider will be matched against records provided by the payee including tax returns, if any, and any discrepancies reconciled to assure an accurate amount to include in annual income.

#### 11. Regular Contributions and Gifts

The PHA shall count as income any regular contributions and gifts (monetary or not) from persons outside of the family.

- a. This may include but is not limited to rent and utility payments paid on behalf of the family and other cash or non-cash contributions provided on a regular basis.
- b. It does not include non-recurring contributions, lottery or other contest winnings paid in a lump sum, or sporadic gifts.
- c. The PHA shall follow the HUD Verification Hierarchy and the PHA's verification procedures to verify income from regular contributions and gifts.
- d. If the party providing regular contributions refused to verify the information, the PHA will document the file.

## 12. Cyclical or Seasonal Work

When income varies due to cyclical or seasonal work, and the source of income has not changed from the previous year, the PHA may rely on the previous year's income to anticipate income for the coming year. Increases in pay rate over that of the previous year would be considered.

When anticipated income cannot be determined for a full 12-month period, the PHA will annualize current income and conduct an interim reexamination when income changes.

## 13. Lump Sum Payments Counted as Income

Lump-sum payments received due to delayed start of periodic payments (e.g., unemployment, TANF, or child support) whether due to disputes or processing will be counted as income in the following manner:

- a. If the family reports the lump sum amount within 30 days of the date it was received, the lump sum amount will not be included in annual income prior to the next reexamination.
  - 1) If, at the next annual reexamination, the lump sum amount has been converted to an asset (i.e., placed in a savings account or invested), it will be treated like any other asset.
  - 2) Any portion of the lump sum that is payment for a period prior to the family's participation in the HCV program would be counted as an asset instead of as annual income.
- b. If the family does not report the lump sum amount within 30 days it was received, the lump sum amount will be included in annual income retroactively by adding the lump sum amount to the annual income that was in effect when the lump sum amount was received.
  - 1) The total tenant payment will be recalculated and compared to the previous total tenant payment.
  - 2) The family will be required to enter into a Repayment Agreement with the PHA to repay the retroactive rent to the PHA.
  - 3) The family officially owes this money to the PHA whether or not the family chooses to continue its participation in the HCV program.
  - 4) Any portion of the lump sum that is payment for a period prior to the family's participation in the HCV program would be counted as an asset instead of as annual income.
- c. Attorney fees may be deducted from lump-sum payments when the services were necessary to recover the lump-sum settlement and when the recovery does not include additional monies to pay the attorney fees.

#### 14. Income of Dependents

A dependent is a family member who is under 18 years of age, is disabled (regardless of age), or is a full-time student (regardless of age). The head of household, spouse, or co-head, foster child(ren)/adult(s), or live-in aide (including family of a live-in aide) are never dependents.

- a. Benefits and non-earned income of dependents is included in annual income.
- b. The PHA will include in annual income all income (earned and non-earned) of the head of household, spouse, or co-head, even if a full-time student or under the age of 18.

#### 15. Income of Full-Time Students 18 years of Age and Older

- a. The PHA will include only the first \$480 of earnings for full time students, other than the head of household, spouse, co-head, or foster child(ren)/adult(s).
- b. All income of full-time students is included in annual income if that person is the head of household, spouse, or co-head.
- c. If the income is less than \$480 annually, the PHA will include the full amount of the income.
- d. The PHA will include all other unearned income (except that which is excluded by federal regulation) of full-time students 18 years of age or older.

#### 16. Inclusion of Financial Assistance Received by Students of Higher Education

The PHA will include in annual income all financial assistance (except student loans), in excess of amounts received for tuition and other required fees and charges from private sources or from an institution of higher education as income to all single students of higher education meeting eligibility requirements for signal students are who are not over age 23 with dependent children.

### C. Federally Mandated Income Exclusions

HUD has determined certain income sources be prohibited from consideration in annual income for purposes of determining eligibility or tenant rent. These amounts are often referred to as income exclusions or excluded income and are not considered part of annual income.

#### 1. Wages of Family Members Under 18 Years Old

The full amount of income from employment of children (including foster children) under the age of 18 (excluding the head of household, spouse, or co-head).

#### 2. Earnings of Full-Time Students

Earnings in excess of \$480 for full-time students over age 18 years old (except head of household, spouse, or co-head).



3. Refunds or Rebates of Property Tax on Home

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

4. Exclusion of Financial Assistance Received by Students of Higher Education

Exclude all financial assistance, including grants, scholarships, educational entitlements, federal work-study income, from public or private sources provided to students or to the institution of higher education on behalf of students:

- a. Over the age of 23 with at least one (1) dependent child,
- b. Were disabled and receiving assistance on November 30, 2005, or
- c. A student of higher education living in the parental household of a family receiving Section 8 assistance.

5. Lump-Sum Additions to Family Assets

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance, worker's compensation), capital gains and settlements for personal or property losses.

6. Lump-Sum Payments of Deferred Benefits

- a. Any deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or
- b. Any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

7. Amounts Received Under Training Programs Funded By HUD

Training programs funded by HUD will have goals and objectives. This is not to be confused with employment by the PHA.

a. Amounts Set Aside for Use under PASS

Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) are excluded in the calculation of annual income.

b. Amount received under a Resident Service Stipend

- 1) Resident service stipend is a modest amount, not to exceed \$200 per month, received by a resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development.
- 2) Such services may include, but are not limited to, fire patrol, hall monitoring, ground maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board.

- 3) No resident may receive more than one such stipend during the same period of time.
  - 4) The Public Housing Reform Act provides that the governing board of a PHA must generally contain at least one member who is directly assisted by the PHA. To support and facilitate implementation of this statutory requirement, HUD has clarified that the resident service stipend exclusion covers amounts received by residents who serve on the PHA governing board.
  - c. Amounts received by a family in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.
  - d. Incremental earnings and benefits received by 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.
    - 1) A qualified training program is one that is part of a state or local employment-training program and has clear goals and objectives.
      - a) This would include programs that have the goal of assisting participants in obtaining employment skills, and are authorized or funded by federal, state, or local law, or operated by a public agency.
      - b) These include programs through Department of Labor, Employment Training Administration, and Welfare-to-Work Grants.
    - 2) Amounts excluded by this provision are excluded only for the period during which the family member participates in the employment-training program.
8. Temporary, Non-Recurring, Sporadic Income, Including Gifts
- Are income amounts that are neither reliable or periodic, which are not of a regular nature, and which cannot be counted on continuing.
- a. The PHA shall consider the income of a family member who works occasionally sporadic if future work could not be anticipated and there is no stable or historic pattern of previous employment.
  - b. The PHA shall consider employment lasting less than 60 days temporary, non-recurring, and sporadic.
  - c. If the family anticipates receiving income from a source in the next 12 months, even if the payments are made on an irregular basis, the anticipated income will be included in annual income.
  - d. An average of a recurring pattern of temporary or sporadic income will be included in annual income.

- e. A pattern temporary or sporadic income during the previous 12 months would not be considered non-recurring and the average of the income will be included in annual income.

9. Reimbursed Medical Expenses

- a. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- b. This exclusion is not limited to elderly and disabled families that qualify for the unreimbursed medical expense deduction.

10. Income of live-in aides

All income of a live-in aide, including the live-in aide's family, is excluded.

11. Adoption Assistance Payments

Adoption assistance payments in excess of \$480 per adopted child.

12. Payments to Keep Developmentally Disabled Family Members at Home

An amount 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.

13. Payments Received for the Care of Foster Children or Foster Adults

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).

14. Armed Forces Hostile Fire Pay

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

15. Foreign Government Reparation Payments

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 are excluded in the calculation of annual income.

16. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. A notice will be published in the Federal Register and distributed to PHAs identifying the benefits that qualify for this exclusion. Updates will be distributed when necessary. The following is a list of income sources that qualify for that exclusion.

- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977

- b. Payments to volunteers under the Domestic Volunteer Services Act which includes, but is not limited to:
  - 1) Retired Senior Volunteer Program (RSVP)
  - 2) Foster Grandparents (FGP)
  - 3) Senior Companion Program (SCP)
  - 4) VISTA
  - 5) Peace Corps
  - 6) Service Learning Program
  - 7) Special Volunteer Programs
- c. Small Business Administration programs such as National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience;
- d. Service Corps of Retired Executives (SCORE)
- e. Active Corps of Executives (ACE)
- f. Payments received under the Alaska Native Claims Settlement Act.
- g. Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes.
- h. Payments or allowances under Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP).
- i. Income derived from the disposition of funds of the Grand River Band of the Ottawa Indians.
- j. The first \$2,000 of per capita shares from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands.
- k. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges 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 not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);
- l. Payments received from programs funded under Title V of the Older Americans Act of 1965 which includes, but is not limited to:
  - 1) Senior Community Services Employment Program;

- 2) National Caucus Center on the Black Aged;
  - 3) National Urban League;
  - 4) Association National Pro Personas Mayors;
  - 5) National Council on Senior Citizens; or
  - 6) Green Thumb.
- m. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the Agent Orange product liability legislation.
  - n. Payments received under the Maine Indian Claims Settlement Act of 1980.
  - o. The value of any childcare provided or arranged (or any amount received as payment for such care) or reimbursement for costs incurred for such care under the Child Care and Development Block Grant Act of 1990.
  - p. Earned Income Tax Credit (EITC) refund payment.
  - q. Payments by the Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
  - r. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.
  - s. Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).
  - t. Any amount of crime victim compensation that the applicant (under the Victims of Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant.
  - u. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.
  - v. An amount earned by temporary U.S. Census employees for determining income in the Department's assisted housing programs. Terms of employment may not exceed 180 days for the purposes of the exclusion.
  - w. Any amounts received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966, including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).
  - x. Payments, funds, or distributions authorized, established or directed by Section 8 of the Seneca Nation Settlement Act of 1990.

- y. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010.
- z. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, as provided in the Claims Resolution Act of 2010 for a period of one year from the time of receipt of that payment.
- aa. Kin-Gap Payments that go to, or on behalf of children leaving the juvenile court system to live with a relative or legal guardian.
- bb. Kinship Payments that go to, or on behalf of children living with a relative or legal guardian.
- cc. Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002.
- dd. Per capita payments made from the proceeds of Indian Tribal Trust Cases, Exclusion of Income of Payments under Recent Tribal Trust Settlements.
- ee. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

#### **D. Assets**

Assets are items of value that may be converted to cash.

1. Family assets may include but is not limited to:
  - a. Amounts in checking and savings accounts, safe deposit boxes, or cash.
    - 1) In determining the value of checking and/or savings accounts, the PHA will use the lesser of the current balance or the average balances of the last two (2) consecutive month's bank statements generated by a third-party source dated within 60 days preceding the reexamination or PHA request date.
    - 2) The value of the savings account will be considered an asset unless the account is specifically designated under the Plan to Attain Self-Sufficiency (PASS).
  - b. Certificates of Deposit (CD), stocks, bonds, money market accounts, and other investment accounts  
Interest and dividends earned by investment accounts.
    - 1) The PHA must determine the cash value of the asset.
    - 2) The family must provide the original copies of receipts for purchases of investments, including original periodic statements with the known rate of return for the investments.
  - c. Equity in Real Property
    - 1) Real property includes land or real estate owned by a member of the family.

2) Equity is the portion of the market value of the asset which is owned by the family (the amount which would be available to the family if the property were to be sold).

3) The PHA will calculate the equity in real property using the following formula:

$$\text{Market Value} - \text{Loan (mortgage)} = \text{Equity}$$

4) The PHA will calculate the cash value of real property using the following formula:

$$\text{Equity} - \text{Expenses to convert to cash} = \text{Cash Value}$$

5) Expenses to convert to the cash value may include cost such as sales commissions, settlement/closing costs, transfer taxes, attorney fees, appraisal fees, and repair costs, if applicable.

d. Trusts

A trust is a fiduciary relationship in which one party, known as a trustor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary.

1) Revocable Trust

- a) If any member of the family has access to or the right to withdraw the funds in the trust, the value of the trust is considered an asset.
- b) Any income earned as result of investment of the trust fund is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

2) Irrevocable Trust

- a) If no family member has access to either the principal or income of the trust, the trust is not included in calculation of income from assets or annual income.
- b) Any income distributed to the family from such a trust is counted as periodic payment or a lump sum receipt.
- c) The Principal from a trust is not counted as an asset if the trust is not revocable by, or under the control of, any member of the family, so long as the fund continues to be held in trust.
- b) If a family sets up an irrevocable trust for the benefit of another person outside of the household, the PHA must determine whether or not the value of the trust is less than the fair market value of the assets contained therein had the family retained the asset.
  - (1) If that is the case, the fair market value less reasonable costs must be determined, and the net value of the asset included in total assets.
  - (2) Any income the family receives from the trust will be included in annual income.

- (3) Nominal amounts set aside in trust for or donated to charitable organizations up to \$5,000 will not be considered assets disposed of for less than fair market value.
- e. Cash value of life insurance policies
- f. IRA, Keogh, and similar retirement savings accounts, even if withdrawal would result in a penalty
- g. Contributions to Retirement/Pension Funds, 401K
  - 1) While an individual is employed, the PHA must determine if the employed person has access to the money before retirement.
    - a) If the employee has access to the money before retirement, the PHA will only count as an asset the amount the family can withdraw without retiring or terminating employment.
    - b) If the employee does not have access to the money before retirement, the PHA will not count as an asset the money in the retirement fund.
  - 2) After retirement or termination of employment, the PHA will count as an asset any amount the employee elects to receive as a lump sum from the company retirement or pension fund.
  - 3) The PHA will include in annual income any retirement/pension benefits received through periodic payments.
- h. Assets Jointly Owned

Assets, which although owned by more than one person, allow unrestricted access by the family.

  - 1) If assets are held jointly in an account and any family member has unrestricted access to the asset, the full value of the asset will be counted. Unrestricted access is when the family member can legally dispose of the asset without consent of the other owners of the asset.
  - 2) If assets are held jointly in an account, the full value of the asset will be counted unless the family member can demonstrate that their access to the asset is legally restricted.
    - a) The PHA must be able to verify the restriction.
      - (1) Documents that may provide this information include deeds, tax returns, ownership papers, and financial institution records.
      - (2) These types of documents should, if applicable to the asset, describe whether the family member has full or restricted access to the asset.



- b) If the assets are held jointly and the PHA has verified that the family member has legal restricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided by State or local law, the PHA will prorate the asset evenly among all the owners.
- i. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- j. Assets, business or family, disposed of for less than fair market value during the two (2) years preceding admission to the HCV program or reexamination
  - 1) The PHA will count as an asset, including a disposition in trust, the difference between the cash value and the actual amount received for the asset disposed of for less than market value for two (2) years from date of disposition, if the cumulative fair market value of the asset disposed of during the past two (2) years exceed the gross amount of the asset by \$3,000.
  - 2) The PHA will not consider assets disposed of as result of a divorce, separation, foreclosure, or bankruptcy as assets disposed of for less than fair market value.
- k. Lump Sum Receipts

Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements/payments (including payment under health and accident insurance and worker's compensation), other claims, and settlement for personal or property losses are counted as assets whether or not they are retained in recognizable asset (e.g., savings, checking account, or other investment fund).
- 2. Family assets do not include:
  - a. Personal property not limited to:
    - 1) Wedding rings and other jewelry that is not held as an investment.
    - 2) Personal vehicles
    - 3) Vehicles especially equipped for persons with disabilities
    - 4) Clothing
    - 5) Furniture
    - 6) Computers and equipment for personal but not business use
  - b. Interest in Indian trust lands
  - c. Term life insurance policies with no cash value
  - d. Assets that are part of an active business or farming operation

Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the family's main occupation.
  - e. Assets not controlled by or accessible to the family and which provide no income for the family

- A victim of a VAWA crime who because of the VAWA crime no longer has access to the real property and cannot convert it to cash.
- f. Nonrevocable trust as long as the funds continues to be held in trust
  - g. Equity accounts in HUD homeownership programs.
  - h. Does not include the value of a home currently being purchased with HCV assistance under 24 CFR part 982, subpart M. This exclusion is limited to the first 10 years after the purchase date of the home.
  - i. Equity in owner-occupied cooperatives and manufactured home in which the family lives
  - j. The entire value of an individual's ABLE (Achieving a Better Life Experience) account.

## **E. Income from Assets**

The PHA will include in the calculation of annual income any interest or dividends earned on assets held by the family (including minors).

### **1. Net Family Assets**

Is the net cash value after deducting reasonable costs that would be incurred in disposing of the real property, savings, stocks, bonds, and other forms of capital investments.

Determining the Cash Value of an Asset

- a. The PHA must determine the market value of an asset then calculate the cash value by subtracting the estimated expenses required were the family to convert the asset to cash.
- b. Expenses to covert to cash includes but it not limited to costs such as:
  - 1) Penalties for premature withdrawal (e.g., the 10% penalty paid when a retirement account is closed prior to retirement age, or a certificate of deposit is withdrawn prior to maturity); if penalties would be imposed for early withdrawal.
  - 2) Broker and legal fees (e.g., a percentage of the value of the asset incurred in the sale of stocks, bonds, real estate, etc.); and
  - 3) Settlement costs incurred in real estate transactions (e.g., the typical percentage of sales price for settlement in the locality).

### **2. Passbook Rate Determination**

- a. The PHA will use the Savings National Rate that is in effect on the first day of the PHA's fiscal year to determine the passbook rate.
- b. The PHA may establish a passbook rate within 75 basis points (plus or minus .75 percent) of the Savings National Rate in effect at the time the PHA establishes the passbook rate.
- c. The PHA shall not establish a passbook rate less than zero (0) percent.

- d. The PHA will review the Savings National Rate annually and adjust it accordingly on the first day of the PHA's fiscal year.
  - e. The PHA may access the current and historical Savings National Rates at [www.fdic.gov/regulations/resources/rates/](http://www.fdic.gov/regulations/resources/rates/).
3. Calculation of Assets
- a. Actual Income from Assets: Where family net assets are \$5,000 or less, the PHA will use the actual income from assets, multiplying the value of the asset by the applicable annual interest rate.
  - b. Imputed Income from Assets: Where family net assets are in excess of \$5,000, the PHA will use the greater of:
    - 1) The actual income derived from net family assets, or
    - 2) A percentage of the value of such assets based on the current passbook savings rate: the imputed income from assets.

## **F. Annualizing and Averaging Income**

The PHA must convert the reported income to an annual figure. The PHA may choose the following methods to determine the anticipated annual income:

1. Annualize current income (and subsequently conduct an interim reexamination if income changes). To annualize income, the PHA will multiply:
  - a. Hourly income by the number of hours worked in a year;
  - b. Weekly income by 52 weeks, unless it is verified that less weeks will be worked;
  - c. Bi-weekly income (paid every other week) by 26 pay-periods;
  - d. Semi-monthly income (paid twice each month) by 24 pay-periods; and
  - e. Monthly by 12 pay-periods.
2. Average the income using the information available from all known income sources when the income sources are expected to change during the year (no interim adjustment is required if income remains as predicted).
  - a. Income from the previous year may be analyzed to determine the amount of anticipated income when future income cannot be clearly verified.
  - b. If, by averaging, a reasonable estimate can be made, that estimate will be used to anticipate annual income over the next 12 months, instead of changing the HAP every month as the income fluctuates.
  - c. Where income is seasonal or fluctuates as to hours or rates, such as for teachers, construction workers, farmers, or migrant workers, the PHA will use an average for 12 months based on past income history of the family and such anticipated income that can be verified.

## **G. Earned Income Disallowance Self-Sufficiency Incentive (EID)**

The EID calls for the exclusion of increases in income attributable to employment by a family member who is a person with disabilities over income received by that family member prior to qualifying for the disallowance. The exclusion only applies to the income of the family member who is a person with disabilities and not the entire family.

### **1. Qualifications:**

- a. The exclusion only applies to families currently receiving housing assistance.
- b. An applicant family is not eligible for the EID.
- c. An HCV family 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; or
  - 1) 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 a week for 50 weeks at the established minimum wage.
  - 2) The established minimum wage means the federal minimum wage unless there is a higher state or local minimum wage.
- d. An HCV family 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
  - 1) The increase in earning must occur while the person with disabilities is enrolled in the economic self-sufficient or other job training program.
  - 2) An economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.
- e. An HCV family 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 (6) 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. The TANF program includes formula-driven maintenance assistance and such benefits and services as one-time payments; wage subsidies and transportation assistance-provided that the total amount over a six (6)-month period is at least \$500.

Note: Receipt of Food Stamps and/or Medicaid is not part of the TANF program. If no TANF assistance is provided as listed above, the family will not qualify for the earned income disallowance under TANF provisions but may qualify under the remaining

criteria. The PHA will verify receipt of benefit or services other than monthly maintenance with the TANF provider if the family indicates that their eligibility for the earned income disallowance is based on other assistance under TANF.

## 2. EID Maximum Lifetime Benefit

### a. Maximum 24 Straight Month Lifetime Disallowance Period

- 1) Effective May 9, 2016, the EID benefit is limited to a lifetime 24-month period for the qualifying family member who is a person with disabilities.
- 2) Once the family member who is a person with disabilities is determined to be eligible for the EID, the 24-calendar month period starts.
- 3) During the first 12-calendar month period, the PHA must exclude 100% of the increased income resulting from the qualifying employment of the family member with disabilities.
- 4) If the family member with disabilities discontinues the employment that initially qualified the family member with disabilities for the EID, the 24-calendar month period continues.
- 5) During the 24-calendar month period, EID benefits are recalculated based on changes to family member with disabilities income and employment.
- 6) After the first 12-calendar month period, the PHA must exclude from annual income of the family at least 50% of any increase in income of the family member with disabilities as a result of employment over the family member with disabilities income before the qualifying event (i.e., the family member's baseline income).
- 7) At the end of the 24-months, EID ends regardless of how many months were used.

### b. Maximum 48-Month Lifetime Disallowance Period

- 1) Prior to May 9, 2016, EID regulations called for a four-year (48 month) lifetime maximum period for the qualifying family member who is a person with disabilities.
- 2) Initial 12-Month Exclusion
  - a) During the initial 12-month exclusion period, the full (100%) amount of the increase in income attributable to employment or increased earnings is excluded.
  - b) The initial full exclusion period begins on the date the family member with disabilities who qualifies is employed or first experiences an increase in income due to employment.
  - c) The initial full exclusion extends for a total of 12 cumulative months. The months do not have to be consecutive.

- 3) Second 12-Month Exclusion and Phase-In
  - a) During the second 12-month exclusion and phase-in period, the exclusion is reduced to half, or 50%, of the increase in income attributable to employment or increased earnings.
  - b) The second 12-month exclusion period begins after the family member with disabilities who qualifies has received 12 cumulative months of full exclusion.
  - c) The phase-in period extends for a total of 12 cumulative months. The months need not be consecutive.
3. Because only a person with disabilities is eligible for the EID under the HCV program, the PHA will discontinue the EID benefit for a qualifying person with disabilities who is no longer considered disabled at their next regularly scheduled reexamination.

A decision regarding "no longer disabled" will be verified through the SSA for SSI and SDI recipients or from a medical, health, or rehabilitation professional for those not receiving publicly funded benefits.

## **H. Adjusted Annual Income**

Adjusted income is the annual income of all the members of the family residing in or intending to reside in the unit less the HUD mandatory deductions and allowances.

## **I. HUD Mandatory Deductions and Allowances**

The PHA must deduct the following amounts from annual income:

1. Dependent Allowance
  - a. The PHA will deduct \$480 from the annual income for each family member who is:
    - 1) Under 18 years of age, including children who are adopted;
    - 2) A person with disabilities, no matter what age; or
    - 3) A full-time student, no matter what age.
  - b. The head of household, spouse, co-head, foster child/adult, live-in aide, or live-in aide family members may never be counted as a dependent or receive the dependent allowance.
2. Elderly/Disabled Allowance
  - a. \$400 per family for families whose head, spouse, or co-head is 62 years or older (elderly families) or who is a person with disabilities (disabled families).
  - b. Each elderly or disabled family is limited to one \$400 allowance even if both the head of household and spouse are elderly or persons with disabilities.
3. Child Care Expenses

Reasonable expenses for the care of children under age 13, including foster children, may be deducted from annual income if the following is true:

- a. The care is necessary to enable a family member to work, look for work, or further their education (academic or vocational).
  - 1) Childcare to enable a family member to work:
    - a) The maximum childcare allowed would be based on the amount earned by the person enabled to work.
    - b) The person enabled to work is the adult member of the household who earns the least amount of income from employment, unless it is obvious that another household member is enabled to work.
    - c) The childcare deduction may not exceed the amount of income earned by the person enabled to work.
    - d) Childcare attributable to work of a full-time student (except for head of household, spouse, or co-head) is limited to not more than \$480 since the employment income of full-time student in excess of \$480 is excluded in annual income.
  - 2) Childcare to enable a family member to go to school:
    - a) To qualify for childcare deductions under the provision of furthering education, the family member must demonstrate that they are enrolled in some accredited or approved educational or training program (academic or vocational).
    - b) Furthering education can include but is not limited to; completing high school or equivalency (GED), trade school, Community or Junior College, four-year college/university, technical schools, ESL or basic education classes, apprenticeship programs, certificate programs, clerical school and even independent study, if the family member must access online educational programs out of the home.
    - c) The childcare cost to enable a family member to go to school is not capped by the amount earned, but will be calculated for:
      - (1) The time needed to drop off children to the childcare provider, if the childcare is provided outside the home.
      - (2) The time to attend school; and
      - (3) The time needed to pick up the children from the childcare provider, if the childcare is provided outside the home.
    - d) The family member must provide and the PHA must verify information on the type of educational program, the number of units or hours of participation, the name of the educational institution or training facility.
  - 3) Childcare to enable a family member to seek employment:
    - a) The deduction for childcare to seek employment must not exceed the annual adjusted income of the family member seeking employment.

- b) The deduction does not include transportation costs, or other expenses incurred, and are limited to one year per individual.
  - c) The family member may be a participant in an official job search program or may simply demonstrate independent job search activities. In either case, in order to verify the time spent in seeking employment, the PHA will require the family to maintain a log that reflects the following:
    - (1) The date and time of departure from home (including time needed to drop off children for childcare, if provided outside the home);
    - (2) The name and location of the prospective employer, unemployment office or employment agency;
    - (3) The name of the person(s) contacted and telephone number;
    - (4) The length of time for completion of the application, the interview, testing or other job search activity;
    - (5) The time the children are picked up and the time arrived at home;
    - (6) The name, address, telephone number and SSN/EIN of the childcare provider; and
    - (7) The total amount paid for the childcare.
  - d) If multiple applications or interviews are held consecutively or on the same day, the above information should be provided for each prospective employer or agency. The PHA will use this information to verify the contacts and the eligibility of childcare expenses.
  - e) Since job search activities may be irregular and not easily anticipated, the PHA may attempt a limited inclusion at the annual reexamination and conduct an interim reexamination after actual expenditures have been incurred. In many instances, job search periods will be of limited duration, but in some cases the job search period may be extended, especially if the type of employment sought is limited in availability, employment opportunities of any kind are scarce, or the job skills needed are unusual.
- b. Reasonable childcare expenses
- 1) The amount of childcare expenses must be reasonable.
  - 2) The PHA will make a determination as to what is a reasonable rate for childcare based on local conditions and rates.
  - 4) The PHA will also evaluate expenses which may exceed the norm if childcare must be provided in the evenings, nights, or weekends for either educational or employment purposes.
  - 5) If the family has school age children who require care only before and/or after school hours, the PHA will consider reasonable childcare expenses for before and/or after school activities in lieu of individual childcare.



- 6) The PHA will allow for reasonable childcare expenses to include pick-up and drop-off of children at the provider's location (generally determined to be no more than one hour before or after scheduled work hours or school times).
  - 6) If it is determined that there is a significant difference between in-home care and childcare center charges, the PHA will develop a separate scale for each.
- c. The childcare expenses must not be reimbursed
  - 1) The childcare expenses must not be reimbursed by an agency or individual outside the household.
  - 2) The deduction for childcare is not permitted if an agency or individual outside the household reimburses the family for the childcare expenses.
- d. Childcare Provider
  - 1) The family shall decide who will provide the childcare for the family child(ren).
  - 2) The family shall decide the type of childcare available for the family's child(ren).
  - 3) The PHA may not disallow childcare expenses because there is an unemployed adult household member who may be available to provide childcare.
- e. Childcare expenses may be divided between two households in cases of joint/split custody. If only one custodian is an assisted family, the cost of childcare will be pro-rated based on the percentage paid by each custodial parent. The cap on eligibility for childcare expenses allowed the assisted family would still be based on the earned income limitation.
- f. Childcare payments made on behalf of a child under 13 years of age not living in the assisted unit cannot be deducted.
- g. Child support payments are not considered childcare expenses and the PHA may not deduct the child support payments as a childcare expense.
- h. Care expenses for family members with disabilities over the age of 12 cannot be deducted as childcare but may qualify as disability assistance expenses.
- i. The PHA will review the work hours or educational hours to assure that the combined employment or education hours plus pick-up/drop-off times are within a reasonable timeframe. Exceptions may be made for overtime, special seminars, or testing, providing the PHA can verify the extended times.
- j. At annual certification, the PHA will determine the total anticipated childcare expense for the employed family members (including increases for care need during school breaks and summer vacations for school age children) and average the amount over 12 months. Should there be a significant variation from the estimated amount the family may request an interim certification adjustment.

#### 4. Allowance for Unreimbursed Medical Expenses

The unreimbursed medical expense deduction is permitted only for elderly or disabled families (families where the head of household, spouse, or co-head is at least 62 years old or a person with disabilities).

- a. If the family is eligible for a medical expense deduction, the medical expenses of all family members may be counted.
- b. Medical expenses are expenses anticipated to be incurred during the 12 months following certification or reexamination which are not reimbursed by an outside source such as insurance.
- c. The medical allowance is not intended to give a family an allowance equal to previous year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year.
  - 1) Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at admission.
  - 2) If the family is under a payment plan, the PHA will count the medical expense as anticipated.
  - 3) The PHA may address the one-time medical expenses by adding it to the family's total medical expenses either:
    - a) At the time the expense occurs, through an interim reexamination, or
    - b) At the upcoming annual reexamination.
    - c) If the PHA added the one-time medical expense at an interim reexamination, it cannot be added to the medical expenses at the annual reexamination.
- d. The PHA will include the following as a standard medical expense deduction when determining the family's medical expenses deduction:
  - 1) Medical expenses allowed in IRS Publication 502.
  - 2) The amount of unreimbursed out-of-pocket expenses for prescription drugs.
  - 3) Any premiums incurred for a Medicare prescription drug plan.
- e. If the family has medical expenses and no disability assistance expenses, the allowable medical expense is the portion of total medical expenses that exceed 3% of the annual income.

#### 5. Allowable Disability Assistance Expenses (DAE)

Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to enable any member of the family, 18 years of age or older, (including the member who is a person with disabilities) to be employed.

- a. These expenses may not be paid to a member of the family nor reimbursed by an outside source.
- b. The disability assistance expense is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income.
- c. The disability assistance expense must be calculated before the medical deduction is calculated.
- d. The disability assistance expense may not exceed the earned income received by the family member who is 18 years of age or older who is able to work because of the attendant care or auxiliary apparatus.
- e. Attendant care includes the actual cost of providing an attendant to care for a person with disabilities based on local standards for hourly pay or salary. Attendant care includes but is not limited to:
  - 1) In-home care
  - 2) Adult day care
  - 3) Nursing
  - 4) Housekeeping
  - 5) Personal care
  - 6) Errand services
  - 7) An interpreter for persons who are hearing impaired
  - 8) Reader for persons with visual disabilities.
- f. Auxiliary apparatus, including the cost of maintenance and upkeep, includes but is not limited to:
  - 1) Wheelchairs (manual and electric)
  - 2) Walkers
  - 3) Scooters
  - 4) Ramps to provide access to and from the unit
  - 5) Devices to allow persons with visual disabilities to read or type
  - 6) Modifications or adaptations to or special equipment added to vehicles to permit their use by the family member with a disability
  - 7) The veterinarian, grooming, and food costs for a service animal
- g. If the apparatus is not used exclusively by the person with the disability, the PHA must prorate the total cost and allow a specific amount for the disability assistance expense.
- h. The PHA must be able to verify that there is a direct link between the disability assistance expense claimed by the family and the family member (including the family member who is a person with disabilities) to go to work.

- i. If more than one family member is enabled to work as a result of the incurring of disability assistance expenses, the PHA will verify the employment and combine the incomes of all working family members to establish the cap by which the expenditures are limited.
  - j. The PHA must determine what is "reasonable" based on local conditions and costs as well as whether the expenses are directly linked to enabling the family member to work.
  - k. Reasonable attendant care costs for the locality should be verified through a local social services agency which handles attendant care needs, or an Independent Living Center that assists families in matching attendants with clients with disabilities.
  - l. If both childcare and disability expenses are needed to enable a family member to work, the PHA will use the same employment income to justify the childcare expense and the disability assistance allowance.
6. Family Eligible for Disability Assistance Expenses and Childcare Expenses
- a. If the family includes child(ren) under age 13 and child(ren) aged 13 and over with disabilities and is paying for care for both children in order to enable adult family member(s) to work, DAE and the childcare expenses must be applied appropriately since the rules differ for the two (2) deductions.
  - b. If both childcare and disability expenses are needed to enable a family member to work, the PHA will use the same employment income to justify the childcare expense and the disability assistance allowance.
  - c. For Disability Assistance Expenses:  
When more than one family member is enabled to work, combine the annual income to determine the cap on the DAE.
  - d. For Childcare Expenses:
    - 1) The PHA must decide which adult was enabled to work to determine the cap as the childcare deduction may not exceed the amount of income earned by the person enabled to work.
    - 2) If the childcare expenses are associated with attending school or seeking employ, there is no cap. The childcare expenses must be reasonable.
7. Families Eligible for Disability Assistance Expenses and Medical Expenses
- a. If an elderly family or disabled family has both medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% share of these expenses is applied only one time.
  - b. Because the allowance for disability assistance expenses is limited by the amount earned by the person freed for work, the disability allowance must be calculated before the medical allowance is calculated.

- c. When the family has disability assistance expenses greater than or equal to 3% of annual income, an allowance for disability assistance expenses is computed as described above. In such an instance, the allowance for medical expenses will be equal to the family's total medical expenses.
- d. When a family has disability assistance expenses that are less than 3% of annual income, the family will receive no allowance for disability assistance expense. However, the allowance for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.
- e. If the disability assistance expense exceeds the amount earned by the person who was freed for work, the allowance for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense allowance, however, the 3% may have been exhausted in the first calculation and it then will not be applied to medical expenses.

## CHAPTER 11: VERIFICATION REQUIREMENTS

The PHA must verify all applicant and family information used to determine eligibility and level of assistance. The PHA's verification procedures are essential to accurately determine the family's income, assets, and deductions. The verification requirements described in this chapter are applicable to factors that determine eligibility, annual reexaminations, and interim reexaminations.

### A. General Verification Requirements

1. The PHA will obtain and document in the family file, third-party verification of the following factors, or will document the family file why third-party verification was not available:
  - a. Reported family annual income;
  - b. The value of assets;
  - c. Expenses related to deduction from annual income; and
  - d. Other factors that affect the determination of adjusted income.
2. Verified information not subject to change, such as a household member's personal identifying information (PII), name, date of birth (DOB), and SSN need not be reverified.
3. The PHA will accept current original and authentic documentation/verification generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
4. Income verifications will remain valid for 60 calendar days from the date of receipt.
5. Information to be verified by the PHA may include but is not limited to the following:
  - a. U.S. citizenship or eligible non-citizen status.
  - b. SSNs for all members of the household.
  - c. Criminal drug usage/activities background checks.
  - d. Verifying previous and present employment with detailed information i.e., dates of employment, date of wage increases, bonuses, etc.
  - e. All sources of earned and non-earned income.
  - f. Assets, including assets disposed of for less than fair market value in the preceding two (2) years.
  - g. Full-time student status including High School students who are 18 years of age or older.
  - h. Childcare expenses when it allows an adult family member to be employed, look for work, or further their education.
  - i. Determination of disability for allowances, deductions, or requests for a reasonable accommodation, including need for a live-in aide.

- j. Total medical expenses of all family members in households whose head, spouse, or co-head is elderly or disabled.
- k. Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow any adult family member, including the person with the disability, to be employed.
- l. Preferences applicable to placement on and selection from the waiting list based on the selection preferences adopted by the PHA.

## **B. The EIV System**

The Enterprise Income Verification (EIV) System is a web-based application which provides the PHA with employment, wage, unemployment compensation, and social security benefit information for families who participate in public housing and various Section 8, including the HCV, programs under the jurisdiction of the PIH.

Information in EIV is derived from computer matching programs initiated by HUD with the SSA and the U.S. Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, for all program participants with valid PII reported on the form HUD-50058.

1. In accordance with 24 CFR 5.236 and other HUD administrative guidance, the PHA will utilize HUD's EIV System in its entirety to:
  - a. Verify tenant employment and income information during mandatory and interim reexaminations of family composition and income; and
  - b. Reduce administrative and subsidy payment errors.
2. The PHA will use the Income Validation Tool (IVT) Report, which replaced the EIV Income Discrepancy Report, to:
  - a. Facilitate and enhance the PHA's identification of tenant unreported or underreported income information during regular and interim reexaminations.
  - b. Provide the PHA projections of discrepant income for wages, unemployment compensation and SAA benefits pursuant to HUD's data sharing agreements with the SAA, HHS, and NDNH.
3. Disclosure of EIV Information
  - a. The Federal Privacy Act (5 USC §552a(b), as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual.
    - 1) The PHA will not share, will not provide a copy, and will not display the EIV data of an adult household member with another adult household member, unless the individual identified in the EIV data has provided written consent to disclose such information.

- 2) However, the PHA can elect to discuss with and show the head of household how the household's income and rent were determined based on the total family income reported to and verified by the PHA.
  - b. EIV information and any other information obtained by the PHA for the purpose of determining eligibility for the HCV program may not and will not be disclosed to third parties for any reason, unless the tenant has authorized such disclosure in writing.
4. The PHA is prohibited from taking adverse action based solely on EIV information.

### **C. HUD Verification Hierarchy and PHA Verification Procedures**

HUD has established six (6) verification hierarchy levels. (Appendix A)

1. The PHA will begin with Level 6, the 'highest mandatory' form of acceptable third-party verification technique.
2. The PHA will attempt the next lower level of the third-party verification techniques after at least two (2) documented attempts or if five (5) days have elapsed since the request to obtain third-party verification at a higher level.
3. If the PHA is unable to obtain third-party verification, the PHA will use Level 1, the 'lowest - last resort' of the acceptable verification techniques.
4. The PHA will document in the family file the attempts made at each level, the reasons, and why third-party verification was not available.
5. The PHA may also request for the family to provide additional/required documents, verification, and/or information.
  - a. The PHA will give the family an Information Needed form which will include the date the documents, verification, or information is due to the PHA.
  - b. The family will be given 10 days from the date of the Information Needed form to provide the additional/required documents, verification, and/or information to the PHA.
  - c. If the family fails to provide the additional/required documents, verification, and/or information to the PHA by the due date, the PHA may deny the family's admission to the HCV program or terminate the family's HCV housing assistance.

### **D. HUD Verification Hierarchy Techniques**

1. Level 6 (Highest-Mandatory): Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) System and the Income Validation Tool (IVT):
  - a. It is the verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.
  - b. EIV is available to the PHA as a UIV technique.

NOTE: NOT AVAILABLE FOR INCOME VERIFICATION OF APPLICANT



2. Level 5 (Highest-Optional): Upfront Income Verification (UIV), using non-HUD systems:
  - a. It is the verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.
  - b. Utilization of The Work Number (an automated verification system) and state government databases to validate tenant-reported income.
3. Level 4 (High): Written Third Party Verification:
  - a. Tenant Provided Documents
    - 1) The PHA will accept current original and authentic documentation/verification in the possession of the tenant generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
    - 2) The PHA will accept documents/verifications older than 60 days, from the PHA request or reexamination date, to confirm effective dates of income.
  - b. Examples of acceptable Level 4 verification include but are not limited to:
    - 1) Pay stubs (at a minimum, the PHA must obtain two (2) current and consecutive pay stubs for determining annual income from wages)
    - 2) Payroll summary report
    - 3) Employer notice/letter of hire/termination
    - 4) SSA benefit letter
    - 5) VA benefit letter
    - 6) Pension/retirement benefit letter/notice
    - 7) Bank statements
    - 8) Child support payment stubs/printout
    - 9) Unemployment benefit notice
    - 10) Welfare benefit letters/printout
  - c. The PHA may reject documentation/verification provided by the family for the following HUD-approved reasons:
    - 1) The document is not an original; or
    - 2) The original document has been altered, mutilated, or is not legible; or
    - 3) The document appears to be forged document (i.e., does not appear to be authentic).
  - d. Is mandatory for the PHA to use:
    - 1) To supplement EIV-reported income sources.
    - 2) When EIV has no data.

- 3) For non-EIV reported income sources.
- 4) When tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.
4. Level 3 (Medium-Low): Written (Traditional) Third Party Verification Form:
  - a. The PHA will request written third-party verification when the PHA requires additional information that is not available in EIV and/or the family is unable to provide the PHA with current acceptable tenant-provided documentation. Examples of additional information include but are not limited to:
    - 1) Effective dates of income (i.e., employment, unemployment compensation, or social security benefits).
    - 2) For new employment: rate of pay, number of hours worked per week, pay frequency, etc.
    - 3) Confirmation of changes in circumstances (i.e., reduced hours, reduce rate of pay, temporary leave of absence, etc.).
  - b. The PHA will send a verification request form directly (by mail or email) to the third-party source to obtain information, recording the source, date, and method of the request for information.
  - c. The PHA will ensure to protect the family's personally identifiable information (PII).
  - d. If the third-party source does not return the third-party verification form, within 30 days of the Level 3 request, the PHA will attempt the Level 2 verification technique.
  - e. Is mandatory for the PHA to use Level 3 verification:
    - 1) If written third-party verification documents are not available or rejected by the PHA.
    - 2) When the family is unable to provide acceptable documentation.
5. Level 2 (Low): Oral Third-Party Verification:
  - a. Is mandatory for the PHA to use Level 2 verification if Level 4 or Level 3 third-party verification is not available.
  - b. The PHA shall attempt to obtain the third-party verification by contacting the source via telephone.
  - c. The PHA will document in the family file:
    - 1) The telephone number of the third-party source.
    - 2) The date and time of the telephone call.
    - 3) The name of the person contacted.
    - 4) The confirmed information from the third-party source.

- d. If the PHA is unable to contact the third-party source on the first attempt, the PHA shall attempt a second contact within five (5) days of the first Level 2 attempt.
  - e. If the PHA is unable to contact the third-party source on the second Level 2 attempt, the PHA will request Level 1 verification from the family.
6. Level 1 (Lowest): Tenant Declaration/Self Certification:
- a. Is not a third-party verification technique.
  - b. Used as a last resort when the PHA has not been successful in obtaining third-party verification.
  - c. The PHA will accept a notarized sworn statement (with penalty of perjury) or affidavit of the reported income and/or expenses from the family.
  - d. The PHA will document the family file why third-party verification was not available.
7. Exceptions to Third-Party Verification Requirements
- a. The PHA has made numerous attempts to obtain third-party verification and the third-party source has not responded.
  - b. The third-party source does not have the capability of sending the verification directly to the PHA or facilitating oral verification.
  - c. It is not cost effective for the PHA to obtain third-party verification of income, assets, or expenses when the item to be verified is an insignificant amount that would have a minimal impact on the total tenant payment (TTP) and the PHA is able to verify the amount through original documents provided by the family.
  - d. The PHA will document the family file why third-party verification was not available.

## **E. PHA Compliance with Mandated Use of EIV**

The PHA shall provide the following documentation to demonstrate the PHA's mandated compliance with use of EIV.

1. New Admissions, form HUD-50058 Action Type 1:
  - a. Review the EIV Income and the IVT Reports to confirm/validate family reported income with 120 days of the IMS/PIC submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the family file; and
  - c. Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.
2. Historical Adjustments, form HUD-50058 Action Type 14:
  - a. Review the EIV Income and IVT Reports to confirm/validate family-reported income within 120 days of the IMS/PIC submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the family file; and

- c. Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

## **F. Income Discrepancies and Disputes**

### **1. Income Discrepancy Resolution**

- a. The PHA will exercise the following in an attempt to resolve income discrepancies:

If there is a substantial difference (\$2,400 annual income discrepancy) between the income reported on the EIV Income or IVT Reports and the tenant-reported income, the PHA will resolve the income discrepancy by:

- 1) Discussing the income discrepancy with the family.
- 2) Requesting the family to provide documentation to confirm or dispute the unreported or underreported income.
- 3) If the family is unable to provide acceptable documentation, the PHA will request third-party verification directly from the source.
- 4) If the additional documentation confirms that the family failed to report or underreported their income, the PHA will redetermine the tenant rent contribution retroactively as mandated by HUD regulation.

### **2. Income Discrepancies During Reexaminations**

- a. In cases when there is an identified income discrepancy among the form HUD-50058, the EIV Income Report or IVT Report, the PHA must follow up with the family and resolve the differences between the reported information within 60 days of the EIV Income or IVT Report dates using the HUD Verification Hierarchy.
- b. When there is no household identified income discrepancy reported on the form HUD-50058, the EIV Income Report or IVT Report, the PHA will print and maintain in the family file the EIV Income and IVT Reports to document no income discrepancy.
- c. In cases where the PHA does not perform interim reexaminations for increases in income, the PHA will document the family file within 60 days of the EIV Income or IVT Report dates that the PHA does not perform interim reexaminations for increases in income between annual reexaminations.

### **3. Disputed Information**

For each reexamination of family income and composition, the PHA is required to have the following documentation in the family file:

- a. No Dispute of EIV Information:
  - 1) There are no disputes among the EIV Income and IVT Reports.
  - 2) The PHA will include in the family file current acceptable tenant provided documentation, and if necessary (as determined by the PHA), traditional third-party verification and a current copy of the form HUD-50058.

b. Disputed EIV Information:

- 1) There is a discrepancy in at least one of the EIV Income or IVT Reports or the form HUD-50058 is not current or is inconsistent and/or traditional third-party verification form(s) for the disputed information is not clear.
- 2) The PHA will include in the file copies of the EIV Income and IVT Reports, income verification, and a corrected form HUD-50058.

c. In cases when the tenant-reported income is not verifiable through the EIV system:

The PHA will maintain in the family file, current tenant provided documents and if necessary, (as determined by the PHA), traditional third-party verification form(s), copies of the EIV Income and IVT Reports, and a corrected form HUD-50058.

4. Incorrect EIV Information

If the information provided in EIV is in error, the PHA nor HUD can correct the data in EIV. Only the originator of the data can correct the information.

a. Employment and wage information reported in EIV originates from the employer.

- 1) The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.
- 2) If the family disputes this information, the family should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.
- 3) The family should provide the PHA with this written correspondence so that it may be maintained in the family file.
- 4) If employer resolution is not possible, the family should contact the local SWA for assistance.

b. Unemployment benefit information reported in EIV originates from the local SWA.

- 1) If the family disputes this information, the family should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information.
- 2) The family should provide the PHA with this written correspondence so that it may be maintained in the family file.

c. SS and SSI benefit information reported in EIV originates from the SSA.

- 1) If the tenant disputes this information, the tenant should contact the SSA at (800) 772-1213 or visit the local SSA office.
- 2) SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

- 3) The family may also provide the PHA with third-party documents which are in the family's possession to support their dispute of EIV information.
  - a) The PHA, with the family's consent, is required to submit a third-party verification form to third party sources for completion and submission to the PHA, when the family disputes EIV information and is unable to provide documentation to validate the disputed information.
  - b) The family's failure to sign the consent form is grounds for termination of tenancy and/or assistance.
- d. Debts owed to PHAs, and termination of tenancy information reported in EIV originates from the current or a former PHA.
  - 1) If the family disputes the information provided, it is the responsibility of the family to contact the PHA (who reported the information) directly in writing to dispute the information and provide any documentation that supports the dispute.
  - 2) If the PHA determines that the disputed information is, in fact, incorrect, the PHA will update or delete the record from EIV.
  - 3) Former tenants may dispute debt and termination information for a period of three (3) years from the end of participation (EOP) date in the public housing program.
- e. Identity Theft

If the tenant suspects identity theft, it is the responsibility of the tenant to:

  - 1) Check their Social Security records with the SSA;
  - 2) File an identity theft complaint with the local police department;
  - 3) File an identity theft complaint with the Federal Trade Commission; and
  - 4) Monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian).
  - 5) The family will be required to provide the PHA with written documentation of the filed identity theft complaint.

## **G. Verification of Legal Identity**

The PHA will require the family to provide verification of legal identity for each household member 18 years of age and older.

1. Government issued photo identification card
  - a. State issued driver's license
  - b. State issued identification card
2. Passport
3. Alien registration card
4. U.S. military discharge paperwork, DD214

## **H. Verification of Relationships**

Family relationships are only verified to the extent necessary for the PHA to determine the family's eligibility and level of assistance.

1. Marital Status, including Common Law Marriage
  - a. Certification by the head of household
  - b. Marriage license/certificate
  - c. Common law marriage where the couple demonstrates that they hold themselves to be married (e.g., telling others they are married, calling each other husband and wife, using the surname, filing joint income tax returns)
2. Divorce or Separation
  - a. Certification by the head of household
  - b. Copy of the divorce decree, signed by a court officer
  - c. Copy of a court-ordered maintenance or other court record of separation

## **I. Verification of Citizenship or Eligible Immigration Status**

The PHA is required to verify eligible immigration status through the U.S. Citizenship and Immigration Service (CIS)

### **1. Primary Verification Method**

The PHA shall use the CIS automated Systematic Alien Verification of Entitlements (SAVE) system which provides access to names, file numbers and admission numbers of noncitizens.

- a. The PHA shall use the SAVE system prior to providing assistance.
- b. The PHA may elect to provide assistance to the family before the verification of the eligibility of the individual or one family member.
- c. If the SAVE system does not verify eligible immigration status or verifies immigration status that is ineligible, the PHA will use the secondary verification method.

### **2. Secondary Verification Method**

If the SAVE system does not verify eligible immigration status, the PHA must perform a secondary verification.

- a. Manual search of CIS records
  - 1) The PHA must request secondary verification within 10 days of receiving the results of the primary verification from the SAVE system. The PHA will forward the following and any other form specified by CIS to a designated CIS office for review:
    - a) Photocopies (front and back) of the original INS documents required for the immigration status declared,

- b) Attach the CIS document verification request form (G-845S, Document Verification Request), or
- b. Failure of Secondary Verification Method
  - 1) If the secondary verification method fails (it did not verify eligible immigration status), the PHA will provide the family a notice of denial admission or termination of assistance.
  - 2) The notice of denial of admission or termination of assistance shall advise the family:
    - a) The housing assistance will be denied or terminated and a brief description or explanation of the reasons for the denial or termination.
    - b) If a current assisted household, the criteria and procedures for requesting or obtaining prorated assistance.
    - c) The right to request an appeal to the CIS of the results of the secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal.
      - (1) The family shall have 30 days from the date the PHA's notification to request an appeal of the CIS results.
      - (2) The request for appeal shall be made by the family communicating that request in writing directly to the CIS.
      - (3) The family must provide the PHA with a copy of the written request for appeal and proof of mailing.
    - d) The right to request an Informal Hearing with the PHA either upon completion of the INS appeal or in lieu of the CIS appeal.
    - e) For applicants, the PHA shall advise that the assistance may not be delayed until the conclusion of the CIS appeal process, but it may be delayed during the pendency of the informal hearing process.
  - 3. The PHA shall not be liable for any action, delay, or failure of CIS in conducting the automated or manual verification.

#### **J. Verification of Social Security Numbers and Social Security/SSI Benefits**

The PHA must request the applicant and participant, including each member of the household, who are not exempt from disclosure of SSN, to provide documentation of each disclosed SSN.

- 1. Acceptable verification of SSNs consists of:
  - a. Original valid SSN card issued by the SSA;
  - b. Original SSA-issued document, which contains the name and SSN of the individual, or
  - c. Original document issued by a federal, State, or local government agency which contains the name and SSN of the individual.



2. The PHA shall verify each disclosed SSN by:
  - a. Obtaining one of the original SSN documents listed above from the applicant or participant (including each member of the household);
  - b. Making a copy of the original SSN document submitted, returning it to the applicant or participant, and retaining a copy of the SSN document in the family file; and
  - c. Recording the SSN accordingly on line 3n of the form HUD-50058 and transmit the form to HUD within a timely manner.

The PHA will transmit the 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.

3. HUD-SSA Computer Matching

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.

- a. HUD does not initiate computer matching efforts for applicants.
- b. The PHA must ensure that the personal identifier information entered in section 3 of the form HUD-50058 (i.e., household members' name, date of birth, and SSN) is complete and accurate.
- c. 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.
- d. EIV will report the status of the identity verification process as Verified, Failed, Pending, Excluded, or Deceased
  - 1) Verified.
    - a) If the information matches the SSA database, the individual's identity verification status will be Verified.
    - b) No further action is required by the PHA.
    - c) Once the individual's identity verification status is classified as "Verified", the PHA will not remove and destroy the copy of the SSN documents in the family file.
  - 2) Failed.
    - a) If the information does not match the SSA database, the identity verification status will be Failed.
    - b) The PHA will generate EIV's Identity Verification Report to correct, within 30 calendar days, the personal identifiers for the household member (date of birth, surname, and/or SSN) or invalid form HUD-50058 transmitted date (e.g., effective date of action is 15 months or more months ago).

3) Pending.

- a) If an individual's identity verification status is Pending, this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation.
- b) No action is required by the PHA.

4) Excluded.

Effective April 30, 2012, if an individual's identity verification status is Excluded, 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.

5) Deceased.

- a) If an individual's identity verification status is Deceased, this means SSA's records indicate the person is deceased.
- b) The PHA is required to confirm the death with the family's head of household or listed emergency contact person.
- c) 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 action code 6, end of participation (EOP), on form HUD-50058 and discontinue assistance and/or tenancy.
- d) If the individual is not deceased, the PHA will immediately notify the individual in writing and advise the individual to contact SSA so that SSA may correct its records.
- e) If there are authorized household members remaining in the HCV program, the PHA will update the family composition accordingly and complete an interim reexamination.

4. 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, is not legible; or
- c. The document appears to be a forged document (i.e., does not appear to be authentic).
- d. The PHA shall explain to the applicant or participant the reasons(s) the document is not acceptable and shall then request the individual to obtain acceptable documentation of the SSN and submit the document to PHA within 30 days.

## **K. Verification of Included Income**

The PHA will use the following to verify included income:

1. Verify the income in accordance with the HUD-prescribed verification hierarchy;

2. Document in the tenant file why third-party verification was not available; and
3. Report the income in Section 7 of the form HUD-50058.

## **L. Verification Requirements for Excluded Income**

There are two categories of excluded income, fully excluded and partially excluded income. Each category has different verification requirements.

### **1. Fully Excluded Income**

- a. Income that is fully excluded means the entire amount qualifies to be excluded from annual income. For fully excluded income the PHA is not required to:
  - 1) Verify the income in accordance with the HUD-prescribed verification hierarchy;
  - 2) Document in the tenant file why third-party verification was not available; and
  - 3) Report the income in Section 7 of the form HUD-50058.
- b. 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.
- c. The PHA may elevate the verification requirements, on a case-by-case basis, to determine if a source of income qualifies for a full exclusion.
- d. Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:
  - 1) Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
  - 2) Income from a live-in aide.

### **2. Partially Excluded Income**

- a. 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:
  - 1) Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income, including documenting why third-party verification is not available; and
  - 2) Report the income in Section 7 of the form HUD-50058.
- b. Examples of partially excluded income that are subject to regular verification requirements include:
  - 1) Earnings in excess of \$480 for full-time students 18 years old or older.
  - 2) Income subject to the 50% phase-in period of the Earned Income Disallowance.

- c. 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.

## **M. Verification of Assets and Income from Assets**

The PHA will obtain third-party verification of all family assets to which any member has access and the income from those assets upon admitting the family to the HCV program.

### **1. Family Declaration of Net Assets Equal to or Less than \$5,000**

- a. The PHA will accept the family's declaration that the family (including minor family members) has total net assets equal to or less than \$5,000 and the total amount of income expected from all assets to be less than or equal to \$5,000 at the family's next interim or annual reexamination.
- b. All adult family members 18 years old or older must sign the family's declaration of total assets.
- c. The PHA's annual or interim reexamination documentation, which is signed by all adult family members, can serve as the declaration.
- d. The family's declaration of total net assets equal to or less than \$5,000 must:
  - 1) Show each asset, and
  - 2) The amount of income expected from each asset.
- e. Where the family has net family assets equal to or less than \$5,000, the PHA will not request supporting documentation (e.g., bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets.

### **2. Family Net Assets Greater than \$5,000**

Where the family has net family assets in excess of \$5,000, the PHA must obtain third-party supporting verification of such assets (e.g., bank statements) from the family to confirm the assets.

### **3. Verification of Assets for New Additions to the Family**

- a. The PHA will obtain third-party verification of assets for new additions to the family.
- b. At the next annual reexamination of income following the addition of the new family member, the PHA will obtain third-party verification of all family assets if the addition of the new family member's assets puts the family above the \$5,000 asset threshold.
- c. If the addition of the new family member's assets does not put the family above the \$5,000 asset threshold, the PHA will not obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member.
- d. The PHA will obtain third-party verification of all family assets at least every three (3) years.

4. If the PHA has adopted a previous self-certification of assets provision, the PHA will obtain third-party verification of all family assets at the family next income reexamination if the family has provided self-certification of assets for the two (2) previous income reexaminations.

5. Lump Sum Additions

The PHA will verify payments of inheritances through the executor; health, accident, and worker's compensation payments through the provider; capital gains through the broker, original 1099s or tax returns; and settlements for personal or property losses through the insurer.

6. Annuities

- a. Annuities may provide for either fixed or variable payment.
- b. For variable payments, the PHA will evaluate historical information to determine the approximate anticipated payment amount for the next 12-month period.
- c. This annualized income may be adjusted based on significant changes from the anticipated income.
- d. The holder of an annuity may withdraw the funds at any time before maturity but will pay a penalty for early withdrawal.
- e. Verification of the penalty amount may be obtained from the company holding the annuity and should be deducted from the total distribution before determining asset or income amounts.
- f. Monthly or periodic regular annuity payments are counted, as income while the principal of the annuity remains an asset until fully liquidated.
- g. Verification of any annuity expenses will be obtained from the annuity provider.

## **N. Verification of Deductions from Annual Income**

The PHA will follow the HUD Verification Hierarchy which may include but will not be limited to one or more of the methods listed below:

1. Dependent

A dependent is a member of the family (except the head of household, spouse, co-head, live-in aide, live-in aide family or foster children/adults) who is under 18 years of age, is a full-time student, or a person with a disability.

- a. Under the age of 18 years of age (Minor)
  - 1) Birth certificate
  - 2) Valid faith-based record for birth (such as a baptism, confirmation, bar and bat mitzvah showing age or date of birth)
  - 3) U.S. Nationalization certification

- 4) Passport
- 5) Alien registration card
- 6) Divorce decree or custody documents
- 7) Certificate of adoption
- 8) Court ordered documents
- 9) Federal tax return that includes the child(ren) as dependents
- 10) School records
- b. Full-time student

The educational institution defines the time commitment or subject load that is needed to be a full-time student.
- c. Person with a Disability
  - 1) If a person's disability is obvious or otherwise known, the PHA may not request additional information about the disability.
  - 2) If the person's disability is not obvious or not otherwise known:
    - a) The PHA may, but is not required to, accept a statement of the disability by the person with disabilities.
    - b) PHAs may require a statement from a medical or mental health professional who treats the person for his/her disability:
      - (1) A doctor or licensed medical/health professional
      - (2) A peer support group
      - (3) A social service/disability agency or counselor
      - (4) A case manager
  - 3) PHAs may not
    - a) Ask the nature or extent of a person's disability.
    - b) Ask if a person can live independently.
    - c) Impose expensive or burdensome requirements to "prove" a disability.
2. Elderly and Disabled
  - a. Elderly (62 years of age or older)
    - 1) Birth certificate or
    - 2) Valid faith-based record for birth (such as a baptism, confirmation, bar and bat mitzvah showing age or date of birth)
    - 3) U.S. Naturalization certification
    - 4) Passport

- 5) Alien registration card
- 6) Divorce decree
- 7) Court ordered documents
- 8) Federal tax return
- 9) SSA documentation
- 10) Pension/retirement information
- 11) Military discharge paperwork, DD214

b. Disabled

See above under dependent verifications.

3. Childcare Expenses

The PHA will verify:

- a. To verify that the childcare is reasonable, PHA will obtain information from the social services agency that certifies childcare providers, day care centers, federally funded after school programs, etc., and determine a scale of reasonable costs.
- b. The PHA will verify the following information about the childcare provider:
  - 1) Complete name of the provider
  - 2) Complete address of the provider, if not a childcare center
  - 3) Complete address of the location of the childcare
  - 4) Phone number of childcare provider or childcare center
  - 5) The names of the child(ren) being cared for
  - 6) The number of hours and days for which childcare is provided
  - 7) The rate of pay
  - 8) The typical yearly amount paid (considering school and vacation periods)
  - 9) Amount reimbursed by an outside agency, if applicable

4. Unreimbursed Medical Expenses

- a. The PHA will use the most current IRS Publication 502, Medical and Dental Expenses, as a guidance to determine the cost that qualify as medical expenses.

This publication provides a listing and description of allowable medical and dental expenses that can be included as medical deductions.

- b. Unreimbursed medical expenses will be verified by one or more of the methods listed below:
  - 1) EIV and/or written third-party verification from the SSA of Medicare premiums to be paid by the family.

- 2) A computer printout provided by the family will be accepted of medical and/or pharmacy expenses.
  - 3) Written third-party verification by a doctor, hospital or clinic personnel, dentist, pharmacist, concerning anticipated medical costs to be incurred by the family and regular payments due on medical bills; and extent to which those expenses will be reimbursed by insurance or a government agency.
  - 4) Written third- party confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
5. Disability Assistance Expense Deduction
- a. The relationship between the disability and the disability assistance expense and whether the expense is directly related to enabling employment
  - b. Attendant Care
    - 1) Third-party verification that verifies
    - 2) The date the attendant provides care
    - 3) Total hours of care per week/month
    - 4) Total and rate of pay per week/month
    - 5) Amount received from the family per week/month
    - 6) Amount received from other sources per week/month
    - 7) If any amount will be reimbursed by a third-party, and if so, how much per week/month
  - c. Auxiliary Apparatus
    - 1) The type of apparatus: wheelchair, walker, reading devices, etc.
    - 2) Cost of the apparatus, amount paid per week/month
    - 3) Description of modification and cost per week/month
  - d. Income earned due to the care attendant or auxiliary apparatus.

## **O. Verification of Local Preferences**

Verification of family's preferences will be conducted at the time of selection from the waiting list. At the time of application, the preference claimed by the family is used to place them on the waiting list.

The following methods may be used based upon the PHA's preference policies:



| Preferences  | Acceptable Forms of Verification  |
|--|---|
| Residency (Town of Phillipsburg) with an income meeting the extremely low-income   | Utility bills in the name of the family; or Telephone/cable bills; or Verification from schools where children are enrolled; or Rental or lease agreements; or Landlord statements; or Public social services verifications.  |
| Residency (Town of Phillipsburg) whose household is one of elderly status and a household that includes a person with disabilities             | Utility bills in the name of the family; or Telephone/cable bills; or Birth Certificate; or Documentation of disability must confirm only the existence of a disability and not the nature or extent of the disability; or Verification of disability must be provided by form or letter, from a physician, psychologist, clinical social worker, or other licensed health care professional; or documentation verifying receipt of Social Security payments. |
| Residency - Non-residents of the Town of Phillipsburg but reside in Warren County, New Jersey, with the same preferences as Tier I and Tier II |   |
| No preferences and are non-residents of Town of Phillipsburg and Warren County   |   |

|  |  |
|--|--|
| Residency (Town of Phillipsburg) with an income meeting the extremely low-income |  |
|--|--|

## CHAPTER 12: SUBSIDY STANDARDS

The PHA must establish subsidy standards (also referred to as bedroom size or family unit size) for determining the number of bedrooms needed for families of different sizes and compositions. The family's unit size will be entered on the voucher issued to the family.

1. The family unit size is based on the verified family composition when the PHA determined the family's eligibility when admitted to the HCV program or the family's continue eligibility after admittance to the HCV program. The following will apply when the PHA determines the family unit size:
  - a. The subsidy standards must provide for the smallest number of bedrooms needed to house the family without overcrowding.
    - 1) No more than two persons will be required to share a bedroom.
    - 2) Persons of the opposite sex ages five (5) and over (other than spouses or intimate partners) will not be required to share a bedroom.
    - 3) Children of the same sex will share a bedroom.
    - 4) Adults of the same sex will share a bedroom. However, adults of a different generation, i.e., mother, grandmother, may be permitted separate bedrooms.
  - b. The subsidy standards must be consistent with space requirements under HQS.
  - c. The subsidy standard must be applied consistently for all families of like size and composition.
  - d. A child who is temporarily away from home because of placement in foster care is considered a member of the family in determining the family unit size.
  - e. A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
  - f. The PHA will count the live-in aide when determining the family unit size.
    - 1) The live-in aide is permitted a separate bedroom.
    - 2) A live-in aide may have PHA-approved family member/s live with them in the assisted unit, but no additional bedrooms will be provided for the family members of the live-in aide.
    - 3) If PHA-approved live-in aide family members/s live in the assisted unit, the PHA must ensure that HQS will not be violated and there will be no more than two people per bedroom or living/sleeping space in the unit.
    - 4) If the approval of additional family members of a live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved.
  - g. Unless a live-in aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit.

- h. The PHA may approve an additional bedroom for medical equipment if the need is documented by a health care provider.
  - 1) The PHA will verify during the annual inspection of the unit that the medical equipment is in the additional bedroom.
  - 2) If the additional bedroom is not being used for the intended purpose, the PHA will reduce the subsidy standard and corresponding payment standard at the family's next annual reexamination.
  - 3) The PHA may also take further actions, including termination of assistance.

## 2. PHA Subsidy Standards

The PHA has established the following subsidy standards as a guideline to determine the family unit size for voucher issuance:

| <b>Subsidy Standard<br/>(Family Unit Size)</b> | <b>Minimum #<br/>Persons</b> | <b>Maximum #<br/>Persons</b> |
|--|------------------------------|------------------------------|
| 0 BR   | 1                            | 1                            |
| 1 BR   | 1                            | 2                            |
| 2 BR   | 2                            | 4                            |
| 3 BR   | 3                            | 6                            |
| 4 BR   | 6                            | 8                            |
| 5 BR   | 8                            | 10                           |
| 6 BR   | 10                           | 12                           |

## 3. Exceptions to the Subsidy Standards

Exceptions to the subsidy standards will be reviewed by the Executive Director or HCV Occupancy Specialist and may be allowed depending upon the family's circumstances.

- a. As a reasonable accommodation for families that includes a person with disabilities.
  - 1) Approval of a live-in aide
  - 2) Approval of a separate bedroom for medical equipment.
- b. The PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. (For a single person other than a disabled or elderly person or remaining family member such PHA exception may not override the limitation in paragraph (1)(g) of this chapter.)

- c. A family may request an exception to subsidy standards when a licensed professional clinician documents, for specific reasons, the need for separate bedroom accommodations.
- 4. Size of the Unit Occupied by the Family
  - a. The family may lease a smaller bedroom size unit than what is reflected on the voucher provided that the unit meets HQS space guidelines.
  - b. The family may lease a larger bedroom size unit than what is reflected on the voucher, however, the appropriate payment standard and utility allowance must be applied.

## CHAPTER 13: BRIEFING OF FAMILIES

When the PHA selects a family to participate in the HCV program, the PHA will give the family an oral briefing and a briefing information packet to educate the family about HCV program requirements and how to search for a safe, decent, and sanitary unit.

### A. Scheduling the Briefing

Prior to the issuance of the voucher to the applicant family, the PHA must give the family an oral briefing and a briefing information packet. It is the PHA's discretion to brief families who are moving with continued assistance.

1. Briefing Notice
  - a. The head of applicant family will be notified by mail at least 10 business days in advance of the briefing date and time.
  - b. The notice will inform the family of what documents the family must bring to the briefing appointment.
  - c. Head of household and all adult family members 18 years of age and older must attend the briefing appointment.
  - d. If the family fails to appear, the family may be rescheduled for the next briefing session.
    - 1) If the applicant fails to appear a second time, the application will be withdrawn.
    - 2) The applicant family can reapply when the PHA is accepting applications.
  - e. As a reasonable accommodation request for persons with disabilities, the PHA will:
    - 1) Provide the notice in an accessible format.
    - 2) Conduct an alternative briefing, such as a home visit. This alternative briefing may also be conducted for elderly applicants.
2. The PHA may conduct individual or by group briefings.
3. The PHA may conduct the oral briefing by:
  - a. Telephone
  - b. Webcast
  - c. Video call/video conference
4. If requested by the family, a family representative or social service representative may assist with the briefing process.

### B. Oral Briefing Topics

The PHA's oral briefing will include, but is not limited to the following topics:

1. A description of how the HCV program works;
2. Family and owner/landlord responsibilities;

3. Where the family may lease a unit, including leasing a unit inside or outside the PHA's jurisdiction;
4. An explanation of how portability works and how portability may affect the family's eligibility through:
  - a. Receiving PHA screening criteria.
  - b. Changes in subsidy standards.
  - c. Changes in payment standards.
  - d. Other elements of the portability process that may affect the family's assistance.
5. An explanation of the advantages of moving to areas outside of poverty or minority concentration.

### **C. Contents of the Briefing Packet**

When a family is selected to participate in the program, the PHA will provide the family a briefing information packet that will include, but is not limited to the following information:

1. The initial term of the voucher, voucher suspensions, and the PHA's policy on any extensions of the term of the voucher. If the PHA grants extensions, the briefing informational packet must explain how the family can request an extension.
2. Enterprise Income Verification (EIV) System
3. How the PHA determines the housing assistance payment for a family including prorated assistance for mixed families.
4. How the PHA determines the total tenant payment (TTP).
5. The PHA's policy on minimum rent hardship exemptions
  - a. The family's right to request a minimum rent hardship exemption.
  - b. How to request a minimum rent hardship exemption.
  - c. Minimum hardship exemptions are subject to the PHA's Informal Hearing process.
6. How the PHA determines the payment standard for a family.
7. How the PHA determines the PHA's Utility Allowance Schedule.
8. How the PHA determines the maximum rent for an assisted unit.
9. Where the family may lease a unit.
10. Information that they may choose any unit within the PHA's jurisdiction as long as the program requirements are met regarding the unit.
11. Information about general locations and characteristics of neighborhoods.
12. A map which identifies areas of low-poverty and minority concentrations.

13. A listing of rental property known to be available. These listings show addresses, shopping centers, bus lines, amenities, deposit information, etc., as provided by owners/landlords.
14. An explanation of how portability works and how portability may affect the family's eligibility through:
  - a. Receiving PHA screening criteria.
  - b. Changes in subsidy standards.
  - c. Changes in payment standards.
  - d. Other elements of the portability process that may affect the family's assistance.
15. The HUD-required tenancy lease addendum which must be included with the lease.
16. The request for tenancy approval (RFTA) form and an explanation of how to request PHA approval to lease a unit.
17. A statement of the PHA policy on providing information about a family to prospective owners/landlords.
18. PHA subsidy standards, including when the PHA will consider granting exceptions to the standards.
19. The HUD brochure on how to select a unit.
20. The HUD lead-based paint (LBP) brochure.
21. Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form.
22. A list of owners/landlords or other parties known to the PHA who may be willing to lease a unit to the family or assist the family in locating a unit.
23. Notice that if the family includes a person with disabilities, the family may request a current listing of accessible units known to the PHA that may be available.
24. Obligations of the Family under the program.
25. A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.
26. Information whereby if the family is in non-compliance with a PHA Repayment Agreement that the family may be subject to termination of tenancy or assistance, or both.
27. Violence Against Women Reauthorization Act protections.
28. Requirements for reporting changes between reexaminations.
29. Explanation of reasonable accommodation and how persons with disabilities may request a reasonable accommodation.
30. The grounds on which the PHA may terminate assistance for a participant family because of family's actions or failure to act.



31. PHA informal hearing procedures. This information shall describe when the PHA is required to give a participant family the opportunity for an informal hearing, and how to request a hearing.
32. A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.
33. HQS Checklist.
34. What the family should consider in deciding whether to lease a unit, including:
  - a. The condition of a unit.
  - b. Whether the rent is reasonable.
  - c. The cost of any resident-paid utilities and whether the unit is energy-efficient.
  - d. The location of the unit, including proximity to public transportation, centers of employment, schools and shopping.
35. Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
36. Information on security deposits.

#### **D. Effective Communication**

The PHA will take appropriate steps to ensure effective communication when briefing families that includes persons with disabilities or persons with Limited English Proficiency.

The PHA will ensure that briefing materials are in an appropriate alternative format as needed to ensure effective communication such as:

1. Braille materials
2. Audio
3. Large type
4. Sign language
5. Interpreters
6. Accessible electronic communications
7. Transcription services,
8. Assistive listening devices

## **CHAPTER14: ISSUANCE OF THE HOUSING CHOICE VOUCHER**

When a family is selected from the waiting list or an HCV participant family wants to move with continued assistance, the PHA will issue a voucher to the eligible family to search for a safe, decent, and sanitary unit.

### **A. General Voucher Information**

The voucher is evidence that the PHA has determined the family's eligibility to participate in the HCV program and it's the family's authorization to search for unit under the HCV program.

1. The voucher specifies the unit size for which the family qualifies.
2. The voucher specifies the date of issuance and the date of expiration.
3. The PHA is under no obligation to the family, to any owner, or to any other person, to approve a tenancy.
4. The PHA does not have any liability to any party by the issuance of the voucher.
5. The voucher does not give the family any right to participate in the HCV program.
6. The family becomes a participant in the PHA's HCV program when the HAP contract between the PHA and owner takes effect.
7. Verification used to establish eligibility and the level of benefits may not be more than 60 days old as of the voucher issuance date.

### **B. Initial Term of the Voucher**

The initial term of the voucher must be at least 60 calendar days.

1. The PHA's initial term of the voucher is 60 calendar days.
2. The family must submit the request for tenancy approval, a copy of the proposed lease, and the HUD-tenancy addendum, prior to the expiration date of the voucher.

### **C. Suspension of the Voucher Term**

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

### **D. Extension of the Voucher Term**

At its discretion, the PHA may grant the family one or more extensions of the initial term of the voucher.

1. PHA Granted Extensions:
  - a. The family must request an extension of the voucher term in writing.
  - b. The request for an extension of the voucher term must be received prior to the expiration date of the voucher.

2. During the initial term of the voucher, the family will be required to show satisfactory proof of their efforts to find a suitable unit before the PHA will grant an extension.
  - a. This proof includes dates and times of housing inquiries and the names of contacts made during the search.
  - b. The PHA will review with the family the efforts it has made to find a suitable unit and the problems the family has encountered.
  - c. The PHA shall offer advice or assistance which may be helpful in assisting the family locate appropriate and an affordable unit.
  - d. If the PHA determines there is a reasonable possibility that the family cannot locate a suitable unit, the PHA will grant an extension for an additional amount of time.
3. The PHA will grant a maximum of two (2) extensions for a maximum of 120 days.
4. If the family needs and requests an extension of the initial voucher term as a reasonable accommodation to make the program accessible to a family member who is a person with disabilities, the PHA will extend the voucher term up to the term reasonably required for that purpose.
5. The PHA will provide notice to the family if the extension is granted.

#### **E. Expiration of Voucher Term**

The expiration of the voucher term is the deadline for submission of a request for tenancy approval to the PHA.

1. Applicant Families
  - a. When an applicant family's voucher term expires with or without an extension, the PHA will require the family reapply when the PHA begins accepting applications.
  - b. The PHA will not determine the family ineligible for the HCV program on the ground that the family was not able to lease up.
2. If a participant family's voucher term expires with or without an extension, the family will be terminated from the HCV program and required to reapply when the PHA begins accepting applications.

## CHAPTER 15: TENANCY APPROVAL

Upon locating a unit that is suitable and if the owner is willing to lease the unit to the family under the HCV program, the family must request tenancy approval of the unit from the PHA. For purposes of this chapter, "owner" includes a principal, landlord, or other interested party.

### A. HUD-52517, Request for Tenancy Approval

When the family selects a unit, the owner of the unit completes the Request for Tenancy Approval (RFTA) form to provide the PHA information about the unit. The RFTA is used to determine if the unit is eligible for rental assistance.

1. The following documents must be submitted to the PHA to begin the process of approving the unit selected by the family:
  - a. Request for Tenancy Approval.
    - 1) The PHA will use the form HUD-52517.
    - 2) The PHA will permit a family to submit only one RFTA at a time
    - 3) The RFTA must be completed and signed by both the owner and the family.
  - b. A copy of the proposed lease (unsigned) between the owner and the family
  - c. The HUD prescribed tenancy addendum (form HUD-852641-A).
2. The RFTA, the proposed lease, and the HUD prescribed tenancy addendum must be submitted to the PHA no later than the expiration date stated on the voucher.
3. The following are acceptable methods of submitting the RFTA, proposed lease, and the HUD prescribed tenancy addendum:
  - a. Family mails the RFTA in to the PHA
  - b. Family faxes the RFTA into the PHA
  - c. Family emails the RFTA into the PHA
  - d. Landlord mails the RFTA in to the PHA
  - e. Landlord faxes the RFTA into the PHA
  - f. Landlord emails the RFTA into the PHA
4. Owner's Certification
  - a. Owners of projects with more than four (4) units must provide rent amounts for recently lease comparable unassisted units within the premises for the purposes of the PHA's determination of rent reasonableness
  - b. If there is any difference between the rent amounts for the recently leased comparable unassisted units and the proposed rent, the owner must provide an explanation for the difference.

- c. The PHA may require supporting documentation for the difference in rent when applicable.
- d. Owner Relationship Certification
  - 1) The owner, including a principal or other interested party, must certify that they are not related to any member of the family (parent, child, grandparent, grandchild, sister or brother).
  - 2) The certification will not be required if the PHA has granted a request for reasonable accommodation to approve the lease, notwithstanding such relationship, for a family member who is a person with disabilities.
- 5. Owner Lead-Based Paint Certification

For units built prior to 1978, the owner must either:

  - a. Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
  - b. Attach a lead-based paint disclosure statement.

## **B. Ineligible Housing**

The PHA will not approve a request for tenancy for a family if the unit that is selected is one of the following:

- 1. Public or Indian housing unit;
- 2. Unit receiving Section 8 project-based assistance;
- 3. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- 4. College or other school dormitories;
- 5. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- 6. Unit occupied by the owner or by a person with interest in the dwelling unit. Except for families residing in a cooperative, who are owners of a manufactured home lease the manufactured home space, or as a reasonable accommodation for a person with disabilities; or
- 7. A unit owned by an owner or managed by a landlord who is disbarred, suspended or subject to a limited denial of participation in the HCV program.

## **C. PHA's Disapproval of Owner**

The PHA will not approve an assisted tenancy if the PHA has been informed by HUD or another party that the owner (includes a principal or other interested party) is debarred, suspended, or subject to a limited denial or participation.

1. When directed by HUD, the PHA will not approve an assisted tenancy if:
  - a. The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending; or
  - b. A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
2. PHA's Discretion to Disapprove an Owner

The PHA, at its discretion, will disapprove an owner for any of the specific reasons listed below:

- a. A violation of obligations under one or more HAP contracts.
  - b. Acts of fraud, bribery or other corrupt or criminal act in connection with any federal housing program.
  - c. Participation or engaging in any drug-related criminal activity or any violent criminal activity.
  - d. Current or previous practice on non-compliance with HQS and/or State and local housing codes or with applicable housing standards for units leased under any other federal housing program.
  - e. Current or prior history of refusing to terminate tenancy of tenants assisted under the HCV program or any other assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person(s) under the control of any member of the household that:
    - 1) Threatens the right to peaceful enjoyment of the premises by other residents;
    - 2) Threatens the health or safety of residents, PHA employees, owner employees, contractors, or other persons engaged in management of the housing;
    - 3) Threatens the health or safety, or right to peaceful enjoyment of the residence of neighbors or persons residing in the immediate vicinity of the premises; or
    - 4) Engages in drug-related criminal activity or violent criminal activity.
  - f. Fails to pay State or local real estate taxes, fines, or assessments.
  - g. The PHA will not approve a lease if the owner of the unit is the parent (stepparent), child (stepchild), grandparent, grandchild, sister (stepsister) or brother (stepbrother) of the Section 8 household. An exception may be made to this provision as a reasonable accommodation for a person with a disability.
3. The PHA will not allow the owner/landlord to present evidence to appeal the decision to deny their participation in the program.
  4. Nothing in this paragraph is intended to give any owner any right to participate in the HCV program.

**D. Notification to Family and Owner**

The PHA will notify the family and the owner, in writing, if the request for tenancy approval has been approved or denied.

1. Request for Tenancy Approval - Denied
  - a. If the PHA denies the request for tenancy approval, the PHA will notify owner in writing with the specific reasons for denial, including HQS deficiencies.
  - b. The PHA will notify the family in writing that the request for tenancy approval has been denied.
    - 1) The suspended term of the voucher will be added to the end of the voucher term.
    - 2) The family will be issued another RFTA to look for another unit.
2. Request for Tenancy Approval – Approved
  - a. If the PHA approves the request for tenancy approval, the PHA will notify the owner in writing.
  - b. The PHA will notify the family in writing that the request for tenancy approval has been approved and the PHA will proceed with the lease-up process.

## **CHAPTER 16: UTILITY ALLOWANCE**

A utility allowance is calculated for families who are required to pay utilities or supply the unit's range/microwave or refrigerator. The utility allowance is calculated for tenant-paid utilities based on the typical cost of utilities and services paid by energy-conservative households that occupy assisted housing of similar size and type in the same locality. The utility allowance is not based on the family's actual energy consumption.

### **A. Utility Allowance Schedule Review and Revision**

The PHA is responsible for establishing and maintaining a utility allowance schedule that provides a reasonable utility allowance for tenant-paid utilities, services, and tenant provided appliances.

1. The PHA will review the utility allowance schedule annually.
2. The PHA will revise the utility allowance schedule if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised.
3. The PHA will record its utility allowance schedule, with effective date, on form HUD-52667 using a separate form for each housing type.
4. Revised utility allowances will be applied in the family's rent calculation at the family's next annual reexamination.
5. The PHA must provide HUD a copy of the utility allowance schedule.
6. The PHA will maintain supporting documentation to substantiate the review and revision of the utility allowance schedule.

### **B. Utility Allowance**

If the family is responsible for paying for some or all utilities, the PHA will provide the family a utility allowance. The request for tenancy approval submitted by the owner and the family will indicate which utilities are tenant-paid, are included in the rent to owner, and if the tenant is responsible for supplying any appliance.

1. The PHA will consider:
  - a. Heating (space),
  - b. Cooking,
  - c. Other electric (e.g., lights, appliances, general usage),
  - d. Air conditioning (if the majority of housing units in the PHA's market provide centrally air-conditioned units or there is appropriate wiring for tenant-installed air conditioners),
  - e. Water heating,
  - f. Water,
  - g. Sewer,



- h. Trash,
  - i. The cost to provide a range, and
  - j. The cost to provide a refrigerator.
- 2. The PHA will consider the fuel type for the utilities such as;
  - a. Natural Gas
  - b. Bottled Gas
  - c. Electric
  - d. Electric-Heat Pump
  - e. Fuel Oil
  - f. Other
- 3. The PHA will not consider allowances for personal expenses, such as telephone and non-essential utility costs such as the cost of cable or satellite television.
- 4. If all the utilities are included in the rent to owner, the family will not receive a utility allowance.
- 5. The family responsibilities of utilities and appliances on the form HUD-52667, the request for tenancy approval form, and the HQS Inspection Checklist or HQS Inspection Form must match and are incorporated into the lease and the HAP contract.
- 6. The owner and the family must report to the PHA any changes made in the responsibility for payment of any utility and responsibility to provide any appliance.

### **C. Administration**

The PHA will provide the approved utility allowance schedule to the family during the oral briefing session when the family is selected to participate in the HCV program, during regularly scheduled reexaminations for continued assistance, when the family moves within the PHA's jurisdiction, and upon request by the family.

- 1. The utility allowance for a family shall be the lesser of:
  - a. The family unit size as determined under the PHA subsidy standards, or
  - b. The size of unit actually leased by the family.
- 2. The size of the unit actually leased by the family.

In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA will use the appropriate utility allowance for the size of the unit actually leased by the family.

- 3. Higher utility allowance as reasonable accommodation for a person with disabilities.

On request from a family that includes a person with disabilities, the PHA will approve a utility allowance which is higher than the applicable amount on the utility allowance

schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

## **CHAPTER 17: PAYMENT STANDARDS**

The payment standard is an amount generally needed to rent a moderately-priced unit in the PHA's local housing market and it is used to calculate the amount of housing assistance a family will receive. The payment standard is the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

### **A. The Payment Standard for the Family**

The payment standard for the family will be the lower of:

1. The payment standard amount for the family unit size; or
2. The payment standard amount for the size of the unit rented by the family

### **B. Establishing Payment Standards**

The PHA will establish a payment standard amount for each unit bedroom size in a Fair Market Rent (FMR) area. The PHA may establish a single payment standard for the whole FMR area or the PHA may establish a separate payment standard for each designated part of the FMR area.

1. The PHA will establish a payment standard amount between 90% - 110%, the "basic range", of the published FMR.
2. The PHA will request HUD approval to establish a payment standard amount that is higher or lower than the basic range.
3. As a reasonable accommodation for a family that includes a person with a disability, the PHA will establish a payment standard up to 120% of the published FMR.
  - a. HUD approval is not required.
  - b. The unit must meet the reasonable rent requirements.

### **C. Review and Revising the Payment Standards**

The PHA will review its payment standards at least annually. The PHA will review the payment standards no later than three (3) months following the effective date of the published FMR. If necessary, the PHA will revise its payment standards to ensure the payment standards remain within the basic range.

1. Effective date of the revised payment standards for annual reexaminations
  - a. For annual reexaminations of income with an effective date prior to the effective date of the new payment standards, the PHA will use the old payment standards amount.
  - b. For reexaminations of income that are effective on or after the effective date of the new payment standards, the PHA will use the new payment standards amount.
2. Effective date of revised payment standards for newly issued vouchers
  - a. If the effective date of the HAP contract is before the effective date of the new payment standards, the PHA will use the old payment standards amount.

- b. If the effective date of the HAP contract is after the effective date of the new payment standards, the PHA will use the new payment standards amount.

#### **D. Increase in the Payment Standard**

If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount will be used to calculate the monthly HAP payment for the family beginning at the effective date of the family's first annual reexamination on or after the effective date of the increase in the payment standard amount.

#### **E. Decrease in the Payment Standard**

If the PHA lowers its payment standards, the payment standard applies immediately to all new admissions, moves, and families remaining in their units with a new HAP contract (e.g., when the owner offers or requires a new lease).

1. If the payment standard amount is decreased during the term of the HAP contract, the PHA will continue to use the existing higher payment standard for the family's subsidy calculation for as long as the family continues to receive the voucher assistance in that unit.
2. The PHA will provide the family with at least 12 months' notice that the payment standard is being reduced during the term of the HAP contract before the effective date of the change.
3. The PHA will administer decreases in the payment standard amount during the term of the HAP contract in accordance with the PHA policy.
  - a. The PHA may establish different policies for designated areas within its jurisdiction (e.g., for different zip code areas)
  - b. The PHA's administrative policy on decreases to payment standard during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of decrease in the payment standard within that designated area.
  - c. The PHA will not limit or otherwise establish different protections or policies for certain families under HAP contract.

#### **F. Changes in Family Unit Size**

If the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in family unit size.

## **CHAPTER 18: HOUSING QUALITY STANDARDS AND INSPECTIONS**

The goal of the HCV program and the PHA is to provide decent, safe, and sanitary housing at an affordable cost to low-income families. HUD regulations have set forth basic Housing Quality Standards (HQS) which all assisted units must meet before rental assistance can be paid on behalf of program participants.

### **A. Types of Inspections**

The PHA will conduct the following types of inspections:

1. Initial Inspections: The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the initial inspection prior to the initial term of the lease, execution of HAP contract, and the initial HAP payment.
2. Annual Inspections: HUD requires the PHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination, but also may be conducted separately.
3. Complaint or Special Inspections: Inspections investigated by the PHA or registered with the PHA on matters which may indicate non-compliance with HQS that are identified by the family, owner, or general public.
4. Quality Control Inspections: HUD requires that a PHA supervisor or other qualified person reinspect a sample of units under HAP contract during the last PHA fiscal year to ensure that HQS is being enforced correctly and consistently by all inspectors.

### **B. Initial HQS Inspection**

The PHA is required to conduct an initial HQS inspection for each unit and the unit must pass the initial HQS inspection prior to the initial term of the lease, execution of the HAP contract, and the initial HAP payment.

1. The initial HQS inspection will be conducted to:
  - a. Determine if the unit and property is in compliance with HQS.
  - b. Document the current condition of the unit to assist in future evaluations as to whether or not the condition of the unit exceeds normal wear and tear.
  - c. Document the information to be used for determination of rent-reasonableness.
2. The initial HQS inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection forms.
3. Scheduling Initial Inspections
  - a. PHAs with up to 1,250 budgeted units must conduct the inspection within 15 days after the family or owner submits a request for tenancy approval.

- b. The 15-day period is suspended when the unit is not available for inspection.
- c. The PHA shall notify the family and owner, in writing or via email, at least 14 days prior to the initial inspection.
  - 1) The PHA requires a family member (or family representative) 18 years of age or older to be present at the initial inspection.
  - 2) The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
    - a) Reasonable hours to conduct an initial inspection are between 8:30 a.m. and 3:30 p.m., Monday through Friday.
    - b) If the family does not contact the PHA to reschedule the initial inspection or if the PHA is unable to gain access to the unit to conduct the initial inspection:
      - (1) The PHA will consider the inspection as a missed appointment.
      - (2) The PHA will reschedule the inspection.
      - (3) If the family has missed two (2) scheduled initial inspection appointments, the PHA will deny the request for tenancy approval.
- 4. The PHA will notify the family and owner of its determination as to whether the unit meets HQS.
- 5. Passed Initial Inspection
  - a. If the unit passes the initial HQS inspection, the PHA will verbally notify the family and owner.
  - b. If the unit passes the initial HQS inspection, the PHA will also notify the family in writing that the request for tenancy approval has been approved and the suspended term of the voucher will end and the PHA will proceed with the remaining lease-up process.
- 6. Failed Initial Inspection
  - a. If the unit fails the initial HQS inspection, the PHA will provide the family and owner detailed information of all failed and inconclusive items.
  - b. The owner will be allowed two (2) re-inspections to correct items noted as failed.
  - c. The owner will be given up to 14 days to correct the items noted as fail, at the inspector's discretion, depending on the amount and complexity of work necessary to pass the HQS inspection.
  - d. If the allotted time to correct the failed items has elapsed or the maximum number of failed reinspection's has occurred, the PHA will deny the request for tenancy approval.
  - e. The PHA will notify the family in writing that the request for tenancy approval has been denied, the family will be given another RFTA, and the days during which the voucher term was suspended will be added to the end of the voucher term to allow the family additional time to search for another unit.

### **C. Annual HQS Inspections**

Each assisted unit must be in compliance with HQS throughout the assisted tenancy and inspected at least annually during assisted occupancy.

1. Annual Inspections: The PHA will perform annual inspections for units if:
  - a. The unit had any deficiencies during its previous HQS inspection.
  - b. The unit had deficiencies as a result of PHA investigated complaints about HQS matters received from the family, owner, public officials and/or general public in the previous twelve (12) months prior to the anniversary month of the HAP contract or the anniversary month of the most recent inspection.
  - c. The HAP payment was abated in the previous twelve (12) months prior to the anniversary month of the HAP contract.
2. The annual HQS inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection forms.
3. Scheduling Annual Inspections
  - a. Annual inspections must be conducted within 365 days of the previous inspection to meet SEMAP requirements.
  - b. The PHA requires a family member (or family representative) 18 years of age or older to be present at the annual inspection.
  - d. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
    - 1) The PHA shall notify the family in writing at least 10 days prior to the inspection.
    - 2) Reasonable hours to conduct the annual inspection are between 8:30 a.m. and 3:30 p.m., Monday through Friday.
    - 3) If the family does not contact the PHA to reschedule the annual inspection or if the PHA is unable to gain access to the unit to conduct the annual inspection:
      - a) The PHA will consider the inspection as a missed appointment.
      - b) The PHA will reschedule one (1) annual inspection.
      - c) If the family misses the rescheduled annual inspection appointment, the family will have violated the obligations of the family and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.
4. The PHA will notify the family and owner of the results of the inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.

5. If the unit is not in compliance with HQS, the PHA will provide the family and owner detailed information of all failed items or inconclusive items and will identify if the family or owner is responsible for the corrections or repairs of the HQS failed items.

#### **D. Complaint or Special Inspections**

The PHA will investigate complaints about the assisted unit that are brought to the attention of the PHA by the family, owner, public officials, or general public which may indicate the unit is in non-compliance with HQS.

1. The inspector will inspect the items that were reported in the complaint. If another deficiency is discovered during the complaint inspection, the PHA will follow normal procedures to address the newly identified deficiencies, including determining the responsible party for correction or repair of the deficiencies.
2. The complaint/special HQS inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection forms.
3. Scheduling Complaint/Special Inspections
  - a. The PHA shall notify the family and owner, in writing, by telephone or via email, at least 10 days prior to the complaint/special inspection.
    - 1) The PHA must schedule the complaint inspection within 24 hours of receipt of the complaint for a life-threatening HQS deficiency.
    - 2) The PHA must schedule the complaint inspection within 30 days of receipt of the complaint for a non-life threatening HQS deficiency.
    - 3) In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 30-day inspection requirement until such time as an inspection is feasible.
  - b. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
    - 1) Reasonable hours to conduct an inspection are between 8:30 a.m. and 3:30 p.m., Monday through Friday.
    - 2) PHA requires a family member (or family representative) 18 years of age or older to be present at the complaint/special inspections.
    - 3) If the family does not allow the PHA to conduct complaint inspection or if the PHA is unable to gain access to the unit to conduct the complaint inspection:
      - a) The PHA will consider the inspection as a missed appointment.



- b) The family will have violated the obligations of the family and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.
- 4. The PHA will notify the family and owner of the results of the complaint/special inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.
- 5. If the unit is not in compliance with HQS, the PHA will provide the family and owner detailed information of all failed items or inconclusive items and will identify if the family or owner is responsible for the corrections or repairs of the HQS failed items.

## **E. Quality Control Inspections**

The purpose of the quality control inspection 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.

- 1. The quality control inspection will be performed by a supervisor or other qualified person who will reinspect a sample of units under contract during the PHA fiscal year.
  - a. The PHA will use the minimum sample size as required for the quality control inspections pursuant to the SEMAP regulations.
  - b. The reinspected sample will be drawn from recently completed HQS inspections performed during the three (3) months preceding the reinspection.
  - c. The reinspected sample will represent a cross section of inspectors and neighborhoods.
- 2. The quality control HQS inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection forms.
- 3. Scheduling the Quality Control Inspection
  - a. The PHA shall notify the family and owner in writing at least 10 days prior to the inspection.
  - b. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
    - 1) The PHA requires a family member (or family representative) 18 years of age or older to be present at the quality control inspections.
    - 2) Reasonable hours to conduct the quality control inspection are between 8:30 a.m. and 3:30 p.m., Monday through Friday.

- c. If the family does not contact the PHA to reschedule the quality control inspection or if the PHA is unable to gain access to the unit to conduct the quality control inspection:
  - 1) The PHA will consider the inspection as a missed appointment.
  - 2) The PHA will reschedule the inspection.
  - 3) If the family misses two (2) scheduled quality control inspection appointments, the family will have violated the obligations of the family and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.
4. The quality control inspection will be compared to the annual inspection recently completed.
  - a. Discrepancies between the two inspection reports will be evaluated.
  - b. Discrepancies categorized as inspector error are catalogued and reviewed with the inspector. The review is to be instructional and informational, not punitive.
5. The PHA will notify the family and owner of the results of the inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.
6. If the unit is not in compliance with HQS, the inspector will provide the Housing Quality Standards Deficiency Notice to family and/or owner, with a copy to the PHA. The Housing Quality Standards Deficiency Notice will:
  - a. Provide detailed information of all failed items or inconclusive items,
  - b. Identify if the family or owner is responsible for the corrections or repairs of the HQS failed items, and
  - c. Provide the time frame for corrections.

## **F. HQS Performance and Acceptability Requirements**

All units assisted under the HCV program must meet HUD's HQS performance requirements and acceptability criteria both at commencement of assisted occupancy and throughout assisted tenancy.

Other acceptability criteria relate to subjective decency and suitability concerns only and, therefore, the unit's acceptability with respect to these may be determined by the family. If the HQS inspection indicates problems in areas of decency and suitability, the PHA will discuss these problems with the family. If after discussion, the family still wishes to lease the unit, the PHA will not deny approval of the unit for these items, as they will be considered areas of tenant preference.

1. Sanitary Facilities
  - a. Performance Requirements
    - 1) The unit must include sanitary facilities located in the unit.

- 2) The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste.
- 3) The sanitary facilities must be usable in privacy.
- b. Acceptability Criteria
  - 1) The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
  - 2) The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
  - 3) The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
  - 4) The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).
- c. Tenant Preference

The family may determine acceptability of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower, condition of the faucets, minor leaks, scratches, or worn enamel on fixtures, and the location of the sanitary facilities within the unit.
2. Food Preparation and Refuse Disposal
  - a. Performance Requirement
    - 1) The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
    - 2) There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).
  - b. Acceptability Criteria
    - 1) The dwelling unit must have an oven, and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
    - 2) The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

- 3) The dwelling unit must have space for the storage, preparation, and serving of food.
- 4) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).
- c. Tenant Preference
  - 1) The family selects a unit with the size and type of equipment it finds acceptable and may choose to accept a microwave oven in place of a conventional oven, stove, or range if the oven/stove/range are tenant supplied or if microwaves are furnished in both subsidized and unsubsidized units in the building or premises.
  - 2) The amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
3. Space and security
  - a. Performance Requirement

The dwelling unit must provide adequate space and security for the family.
  - b. Acceptability Criteria
    - 1) At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
    - 2) The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
    - 3) Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
    - 4) The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.
  - c. Tenant Preference
    - 1) The family may determine the adequacy of room sizes and room locations.
    - 2) The family is also responsible for deciding the acceptability of the type of door and window locks.
4. Thermal Environment
  - a. Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

b. Acceptability Criteria

- 1) There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- 2) The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

c. Tenant Preference

- 1) The PHA has no control over energy conservation measures, such as unit insulation or installation of storm windows and doors.
- 2) The family must assess whether a unit without these items is acceptable.
- 3) The family must take into account the cost of utilities billed to the family and the family's personal feelings about adequate heat.

d. Healthy Living Environment

- 1) Adequate heat is required in all rooms used for living.
- 2) The PHA has defined a heating system capable of maintaining an interior temperature of 68° between October 1 and May 1 between the hours of 6:00 a.m. and 11:00 p.m. and 65° between the hours of 11:00 p.m. and 6:00 a.m. as adequate.

5. Illumination and Electricity

a. Performance Requirement

- 1) Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.
- 2) The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances.
- 3) The electrical fixtures and wiring must ensure safety from fire.

b. Acceptability Criteria

- 1) There must be at least one window in the living room and in each sleeping room.
- 2) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- 3) The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

c. Tenant Preference

The family may determine whether the location and the number of outlets and fixtures (over and above those required for acceptability standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

6. Structure and Materials

a. Performance Requirement

- 1) The dwelling unit must be structurally sound.
- 2) The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

b. Acceptability Criteria

- 1) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- 2) The roof must be structurally sound and weathertight.
- 3) The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- 4) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- 5) Elevators must be working and safe.

c. Tenant Preference

The family may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

7. Interior Air Quality

a. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

b. Acceptability Criteria

- 1) The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- 2) There must be adequate air circulation in the dwelling unit.
- 3) Bathroom areas must have one openable window or other adequate exhaust ventilation.

- 4) Any room used for sleeping must have at least one window. If the window is designed to be openable, the window must work.
- c. Tenant Preference

The family may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet personal needs.
8. Water Supply
  - a. Performance Requirement

The water supply must be free from contamination.
  - b. Acceptability criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.
  - c. Tenant Preference

The family may decide if the water heater has a large enough capacity for personal family use.
9. Lead-Based Paint Performance Requirement
  - a. Performance Requirement

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, M, and R apply to units assisted under the HCV program.
  - b. Acceptability Criteria
    - 1) The requirements apply to units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom units.
    - 2) During initial and annual inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces.
    - 3) Applicable areas include painted surfaces within the unit, exterior painted surfaces associated with the unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and childcare facilities.
    - 4) For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

c. Tenant Preference

Families with children under 6 years of age have no decision-making authority related to the presence of lead-based paint.

10. Access

a. Performance Requirement

- 1) The dwelling unit must be able to be used and maintained without unauthorized use of other private properties.
- 2) The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

b. Acceptability Criteria

- 1) The unit must have private access.
- 2) In case of fire, the building must contain an alternate means of exit such as fire stairs, or windows, including use of a ladder for windows above the second floor.

c. Tenant Preference

The family should assist the PHA in determining if the type of emergency exit is acceptable.

11. Site and Neighborhood

a. Performance Requirement

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

b. Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

c. Tenant Preference

The family selects a unit, taking into consideration the type of neighborhood, presence of drug activity, commercial enterprises, and convenience to shopping and other facilities.

12. Sanitary Condition

a. Performance Requirement

The dwelling unit and its equipment must be in sanitary condition.



b. Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

c. Tenant Preference

- 1) Provided the minimum standards required by the acceptability criteria have been met, the family must determine whether the unit is in an adequate sanitary condition.
- 2) Occasional mice and roaches may be acceptable to the family.

13. Smoke Detectors

a. Performance Requirement

- 1) Except as provided in paragraph (13)(a)(2) of this section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the unit, including basements but excepting crawl spaces and unfinished attics.

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards).

If the unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

- 2) For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

b. Acceptability Criteria

- 1) The PHA must ensure that the location of smoke detectors conforms with local and/or State Fire Marshall's requirements.
- 2) The PHA must determine that smoke detectors are located and installed in accordance with NFPA Standards.
- 3) All smoke detectors must be in operating condition.
- 4) At initial, inspection smoke detectors must have good batteries and be operable.
- 5) PHAs may follow local codes to determine if missing or dead smoke detector batteries constitute a tenant or owner-caused failure in occupied units.

c. Tenant Preference

The family is not permitted to exercise any tenant preference regarding smoke detector requirements.

## **G. Additions to HQS or Other Local Requirements**

HUD may grant approval for the PHA to use an acceptability criteria variation which apply standards contained in local housing codes or other codes adopted by the PHA or because of local climate or geographic conditions.

1. The acceptability criteria variation may only be approved by HUD if the variation meets or exceeds the performance requirements or significantly expands affordable housing opportunities for families assisted under the HCV program.
2. HUD will not approve the variation if HUD believes that the variation is likely to adversely affect the health or safety of participant families or severely restricts their housing choice.
3. The PHA has adopted the following local codes in addition to the HQS:
  - a. Certificate of habitability
  - b. Rental registration

## **H. Children with an Elevated Blood Lead Level**

If the PHA is notified by a public health department or other medical health care provider or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood-lead level, the PHA will complete a risk assessment of the assisted unit.

The risk assessment will be completed in accordance with program requirements, and the result of the risk assessment will be provided to the owner of the assisted unit. In cases where the public health department has already completed an evaluation of the assisted unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations.

If the owner does not complete the "hazard reduction" as required, the assisted unit is in violation of HQS and the PHA will take prompt and vigorous action to enforce the owner obligations, including but not limited to HAP abatement and/or termination of the HAP contract.

## **I. HQS Family and Owner Responsibilities**

The family and the owner have responsibilities regarding HQS.

### **1. Family Responsibilities**

- a. The family is responsible for a breach of the HQS that is caused by any of the following:
  - 1) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the family;
  - 2) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the family; or
  - 3) Any member of the household or guest damages the assisted unit or premises (damages beyond ordinary wear and tear).
- b. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours.
- c. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

### **2. Owner Responsibilities**

- a. The owner must maintain the unit in accordance with HQS.
- b. The owner is responsible for all other HQS violations, which includes smoke alarms.
- c. 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.
- d. If a defect is life threatening, the owner must correct the defect within no more than 24 hours.
- e. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
- f. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible.

## **J. Time Standards for HQS Repairs**

HQS failed items for annual, compliant inspections must be corrected within the following time frames:

1. Life-threatening HQS fail deficiencies must be corrected or repaired by the responsible party within 24 hours of notification.
2. Non-life-threatening deficiencies must be corrected or repaired by the responsible party within no more than 30 calendar days.

3. Family failure to correct or repair the HQS failed items, within the allotted time, including extensions, may result in termination of assistance.
4. Owner failure to correct or repair the HQS failed items, within the allotted time, including extensions, will result in abatement of HAP payment.
5. PHA-Approved Extensions

The PHA may grant an extension for correction of deficiencies on a case-by-case basis.

- a. The PHA-approved extension time period shall not exceed 30 days from the original date of request of an extension by the family or the owner.

At the end of the allotted extension, if the responsible party fails to comply with the extension agreement or if the failed items are not corrected or repaired, the PHA will take prompt and vigorous action to enforce the obligations of the family or owner obligations based on who was identified as responsible for the corrections or repairs of the HQS failed items, which may include termination of assistance or termination of the HAP contract, respectfully.

- b. PHA-approved extensions may be granted in the following cases:
  - 1) There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
  - 2) The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
  - 3) The repairs are delayed due to weather and/or climate conditions.

## **K. Life-Threatening and Non-Life-Threatening HQS Deficiencies**

A life-threatening defect must be corrected within 24 hours of PHA notification. Other defects must be corrected within 30 calendar days of PHA notification.

1. The PHA has defined life-threatening defects as:
  - a. Gas (natural or liquid petroleum) leak or fumes.
    - 1) A fuel storage vessel, fluid line, valve or connection that supplies fuel to a HVAC unit is leaking; or
    - 2) A strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.
  - b. Electrical hazards that could result in shock or fire. A life-threatening condition is one of the following:
    - 1) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed;
    - 2) A light fixture is hanging by its wires;

- 3) A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit;
  - 4) A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed;
  - 5) A receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections, or wires are exposed;
  - 6) An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses;
  - 7) A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections;
  - 8) Any nicks, abrasions, or fraying of the insulation that expose conducting wire;
  - 9) Exposed bare wires or electrical connections;
  - 10) Any condition that results in openings in electrical panels or electrical control device enclosures;
  - 11) Water leaking or ponding near any electrical device; or
  - 12) Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- c. Inoperable or missing smoke detector. A life-threatening condition is one of the following:
- 1) The smoke detector is missing; or
  - 2) The smoke detector does not function as it should.
- d. Interior air quality. A life-threatening condition is one of the following:
- 1) The carbon monoxide detector is missing; or
  - 2) The carbon monoxide detector does not function as it should.
- e. Gas/oil fired water heater or heating, ventilation, or cooling systems with missing, damaged, improper, or misaligned chimney or venting. A life-threatening condition is one of the following:
- 1) The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gases;
  - 2) A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside;
  - 3) A fuel fired space heater is not properly vented or lacks available combustion air;
  - 4) A non-vented space heater is present;
  - 5) Safety devices on a fuel fired space heater are missing or damaged; or

- 6) The chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases.
- f. Lack of alternative means of exit in case of fire or blocked egress. A life-threatening condition is one of the following:
  - 1) Any of the components that affect the function of the fire escape are missing or damaged;
  - 2) Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or
  - 3) The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- g. Other interior hazards. A life-threatening condition is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired.
- h. Deteriorated paint in a unit built before 1978 that is to be occupied by a family with a child under 6 years of age. This is a life-threatening condition only for the purpose of a condition that would prevent a family from moving into the unit.
- i. Any other conditions identified by HUD notice.
2. The PHA has defined other or non-life-threatening defects as any defects that are not life-threatening.

## **L. PHA Enforcement of HQS Responsibilities**

The inspector will make a determination of family or owner responsibility for breach of HQS during the inspection.

### **1. Family breach of HQS**

If the family has caused a breach of the HQS, the PHA will take prompt and vigorous action to enforce the obligations of the family which may include termination of assistance.

- a. Life-threatening breach of HQS: If an HQS breach caused by the family is life threatening, the family must correct the defect within 24 hours.
- b. Non-life-threatening breach of HQS: For other family-caused defects, the family must correct the defect within no more than 30 calendar days or any PHA-approved extension.
- c. The HAP will not be abated for items that are the family's responsibility.
- d. If the repair(s) or correction(s) are not made within the allotted time period, including any PHA-approved extension(s), the PHA may terminate assistance to the family.
- e. The HAP contract will terminate when the assistance is terminated.

- f. If the family is responsible for the correction or repair of the defects, but the owner corrects or repairs the defects, the owner may bill the family for the cost of the correction or repairs and the PHA will notate the family's tenant file.

2. Owner breach of HQS

If the HQS breach is the responsibility of the owner, the PHA will take prompt and vigorous action to enforce the owner obligations which may include abatement of the HAP payment and/or termination of the HAP contract.

- a. Life-threatening breach of HQS: If a life-threatening HQS breach is the responsibility of the owner, the owner must correct the defect within 24 hours.
- b. Non-life-threatening breach of HQS: For non-life-threatening HQS breach, which is the responsibility of the owner, the owner must correct the defect within no more than 30 calendar days or any PHA-approved extension.
- c. If the repair(s) or correction(s) are not made within the allotted time period, including any PHA-approved extension(s), the PHA will abate the HAP payment to the owner.

## **M. Abatement of Housing Assistance Payment**

The PHA will abate the HAP payments to owners who do not comply with notifications to correct HQS deficiencies within the allotted time period: Life-threatening deficiencies must be corrected within 24 hours and non-life-threatening deficiencies must be corrected within no more than 30 calendar days or any PHA-approved extension.

1. Notice of Abatement

- a. The PHA will provide the owner a 30-day written notification of the abatement, except for life-threatening deficiencies requiring corrections within 24 hours.
- b. The PHA will include the 30-day notice to abate the HAP payment in the original notification of breach of HQS.

2. Abatement Period

- a. The PHA will abate the HAP payment effective the first of the month following the expiration of the notification of abatement.
- b. The owner is not entitled to receive the HAP payment from the first of the month until the day the unit passes HQS.
- c. If the owner corrects the defects or makes repairs during the abatement period, the HAP payment will resume effective the day the unit passes inspection.
- d. The PHA will not make retroactive HAP payments to the owner for the period of time the HAP payments were abated, and the unit was not in compliance with HQS.

**N. Termination of Contract Due to Breach of HQS by Owner**

The owner is responsible for compliance and the terms of the HAP contract including compliance with HQS. If the HQS breach is the responsibility of the owner and the owner fails to correct the defect or make the repairs as per any PHA notice to the owner, the PHA may terminate the HAP contract.

**O. Inspection Cost**

The PHA may not charge the family any fee for any inspection of a unit.

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit.



## **CHAPTER 19: RENT REASONABLENESS**

The rent reasonableness determination involves comparing the rent for the assisted unit to rents for similar unassisted units in the PHA's rental marketplace and comparing the rent for the assisted unit to similar units on the premises.

### **A. Rent to Owner**

The PHA must ensure that the rent to owner for families participating in the HCV program is reasonable.

1. Rent to owner is the full rent the owner is charging for the unit including any utilities, housing services, and maintenance provided by the owner in accordance with the lease.
2. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.
  - a. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner.
  - b. Nonpayment of any such charges is not grounds for termination of tenancy.
3. The owner may not charge the tenant extra amounts for items customarily included in rent to owner in the locality or provided at no additional cost to unsubsidized tenants in the premises.

### **B. Rent Reasonableness Determination**

The PHA will determine reasonable rent:

1. Before executing a HAP contract.

The PHA will not execute a HAP contract until the PHA has determined that the initial rent to the owner is a reasonable rent.
2. Before any increase in the rent to owner is approved.

The PHA will determine and document if the proposed increase in rent to owner is reasonable compared to similar unassisted units in the PHA's marketplace and is not more than the rent paid by unassisted tenants on the premises.
3. If there is a 10% 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.

This provision is designed to ensure that when the market goes down by a significant amount (i.e., a 10% or more reduction in the FMR) the PHA must reexamine rent reasonableness at the contract anniversary date, even if the owner does not propose a rent increase.

4. If directed by HUD.

If HUD has reason to question the PHA's system or the accuracy of the determinations, HUD may require the PHA to conduct rent reasonableness reviews on all or a portion of its units.

5. The PHA may elect to redetermine rent reasonableness at any other time.

At all times during the assisted tenancy, the rent to the owner may not exceed the most recently determined or redetermined reasonable rent amount.

### **C. Comparability**

The PHA will determine if the rent to owner for the assisted unit is a reasonable rent in comparison to the rent to owner for comparable unassisted units.

1. Assisted and unassisted units

- a. Assisted units includes units occupied by voucher program participants, as well as units assisted under other federal, State, or local government programs.
- b. Units may also be considered assisted due to rent control or housing conversion actions.

2. The PHA will consider the following in the rent reasonableness comparison:

- a. Location;
- b. Quality;
- c. Size
- d. Unit type;
- e. Age of the contract unit;
- f. Amenities;
- g. Housing services;
- h. Maintenance; and
- i. Utilities to be provided by the owner in accordance with the lease.

3. The PHA must approve a higher rent to owner that may be necessary as a reasonable accommodation for household which includes persons with disabilities.

### **D. Documenting Rent Reasonableness Decision**

The PHA has implemented a written method to determine and document, for each unit leased, that the rent to owner is reasonable based upon current rents for comparable unassisted units.

1. The following is the PHA's methodology used to determine if the requested rent to owner is reasonable in relation to rents being charged for unassisted units:

- a. PHA collects the required data concerning the unit to be assisted from the request for tenancy approval and during the inspection.
  - b. Data from comparable unassisted units may be collected from, but is not limited to the following sources:
    - 1) Multiple Listing Service
    - 2) Newspaper ads
    - 3) Owner/landlord interviews
    - 4) Owner/agent questionnaires
    - 5) For rent/lease signs
    - 6) Onsite visits
  - c. Data of the assisted unit and at least three (3) comparable unassisted units may be recorded on a Rent Reasonableness Determination (RRD) form. This form may be attached to the inspection records.
  - d. The data on the RRD form is analyzed and an approvable rent is determined and recorded on the RRD with the date and name of the staff person.
  - e. The analysis may either utilize the appraisal method comparing point or dollar values or the standard deviation method using rents adjusted for all of the comparable items.
  - f. Rent rolls may be requested from owner/agents if needed to determine that rents charged for unassisted units in a complex are favorably comparable to the assisted unit.
  - g. The processes may be conducted manually or through the use of a compliant, automated system.
2. The PHA's comparability documentation will include who conducted the rent reasonableness determination and when.

## **E. Owner Certification**

The PHA will advise the owner that by accepting each monthly housing assistance payment they will be certifying that:

1. The rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises;
2. The assisted family is currently occupying the unit;
3. The assisted family is not in violation of lease obligations;
4. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere; and
5. The owner is in compliance with the terms of the HAP contract.

## **CHAPTER 20: THE LEASE AND THE HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT**

After the PHA has approved the tenancy, the family and the owner will enter into a lease and the owner and the PHA will execute the housing assistance payment (HAP) contract.

### **A. PHA Approval of Tenancy**

The PHA will not give approval for the family of the assisted tenancy, or execute a HAP contract, until the PHA has determined that all the following meet HCV program requirements:

1. The unit is eligible;
2. The unit has been inspected by the PHA and passes HQS;
3. The proposed lease includes the HUD prescribed tenancy addendum;
4. The rent to owner is reasonable; and
5. At the time the family initially receives tenant-based assistance for occupancy in a unit and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40% of the family's monthly adjusted income.

### **B. The Lease and Tenancy**

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.

#### **1. Form of Lease**

The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.

- a. If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form, including the HUD-prescribed tenancy addendum.
- b. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease, including the HUD-prescribed tenancy addendum.
- c. The PHA may review the lease to determine if the lease complies with State and local law.
  - 1) If the PHA determines that the proposed lease does not comply with State and local law, the PHA will immediately notify the tenant and owner of the necessary corrections.
    - a) The owner/landlord has three (3) business days to amend it and resubmit it to the PHA.

- b) If the landlord fails to submit an acceptable lease within the allotted time frame, the PHA shall deny the request for tenancy.
  - d. The HAP contract prescribed by HUD will contain the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.
  - e. If the family moved into the unit prior to the execution of the HAP contract and was required by the owner to sign a lease prior to move in, the owner must execute a new lease and the owner and the PHA must execute a HAP contract.
2. Required Information
- The lease must include the following information:
- a. The names of the owner and the tenant;
  - b. The unit rent (address, apartment number, and any other information needed to identify the contact unit);
  - c. The term of the lease (initial term and any provisions for renewal);
  - d. The amount of the monthly rent to owner; and
  - e. A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.
3. Term of Assisted Tenancy
- a. Initial Term of the Lease
    - 1) The initial lease term must be for at least one year.
    - 2) During the initial term of the lease the owner may not raise the rent to tenant.
    - 3) The PHA may approve a shorter initial lease term if the PHA determines that:
      - a) Such shorter term would improve housing opportunities for the tenant; and
      - b) Such shorter term is the prevailing local market practice.
    - 4) The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.
  - b. Family Responsibility
    - 1) If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of the Obligations of the Family under the HCV program.
    - 2) The family must notify the PHA and the owner before the family moves out of the unit. Failure to do this is a breach of Obligations of Family under the HCV program.

#### 4. Family's Right to Use and Occupancy

The family has the right to exclusive use and occupancy of the unit by the members of the household authorized to reside in the unit and receive guests in the assisted unit.

- a. The head of household is responsible for the conduct of the family's guests which includes, but is not limited to:
  - 1) Damages (beyond ordinary wear and tear) to the unit or premises by the guest.
  - 2) Any drug-related criminal activity engaged in, on, or near the premises by the guest.
  - 3) Any violent criminal activity, including domestic violence, dating violence, sexual assault, or stalking, on or near the premises by the guest.
- b. Adult Visitors
  - 1) The family must follow the established policy in the lease as to the length of time an adult guest may visit and/or stay overnight in the assisted unit.
  - 2) The PHA shall allow an adult guest to visit and/or stay overnight in the assisted unit for no more than three (3) cumulative days per year.
  - 3) If the adult exceeds this limit, the PHA may consider the adult an unauthorized household member and will take all necessary actions to enforce the obligations of the family.
- c. Child Visitors
  - 1) The family must follow the established policy in the lease as to the length of time guest under the age of 18 may visit and/or stay overnight in the assisted unit.
  - 2) The PHA shall allow children under the age of 18 to visit and/or stay overnight in the assisted unit for a maximum of 90 cumulative days per year provided the family has the written permission of the owner/landlord.
  - 3) The PHA must approve children exceeding this limit if due to a court ordered custody arrangement.
  - 4) If the children exceed this limit, the PHA may consider the children as unauthorized household members and will take all necessary actions to enforce the obligations of the family.

### C. The Housing Assistance Payment (HAP) Contract

The Housing Assistance Payment (HAP) Contract is a written agreement between the PHA, and the owner of the unit occupied by the HCV family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family leasing the contract unit. The PHA will use the HAP contract form prescribed by HUD.

1. Term of HAP contract.
  - a. The term of the HAP contract begins on the first day of the initial lease term and terminates on the last day of the lease term, including any extensions.
  - b. The date of the HAP contract and lease must be the same.
2. The HAP contract terminates automatically if:
  - a. The PHA terminates the HAP contract.
  - b. The lease is terminated by the owner or the tenant.
  - c. The PHA terminates assistance for the family.
  - d. The family moves from the contract unit.
  - e. When 180 calendar days have elapsed since the PHA made the last HAP payment to the owner for the contract unit.
  - f. Upon the death of a single member household, including single member households with a live-in aide.
3. The PHA may terminate the HAP contract if any of the following occurs:
  - a. The PHA determines, in accordance with HUD requirements, that available program funding is not sufficient to support continued assistance for families in the program.
  - b. The PHA determines that the contract unit does not provide adequate space in accordance with HQS because of an increase in family size or change in family composition.
  - c. A family break-up. The PHA may continue HAP payments on behalf of family members who remain in the contract unit.
  - d. The PHA determines that the unit does not meet all requirement of the HQS or determines that the owner has otherwise breached the HAP contract.
4. Conflict of Interest:

The PHA will not approve a HAP contract in which any of the following parties have direct or indirect interest in the HAP contract or in any benefits or payments under the HAP contract (including the interest of any immediate family member of such covered individual, while such person is a covered individual or during one year thereafter.

- a. Covered Individuals
  - 1) Present or former member or officer of the PHA, except a participant commissioner;
  - 2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or influences program decisions;
  - 3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities related to the program; or

- 4) Any members of the U.S. Congress.
- b. Immediate family members: spouse, parent (including stepparent), child (including stepchild), grandparent, grandchild, sister or brother (including stepsister or stepbrother) of any covered individual.
5. Assignment of the HAP Contract
  - a. The owner may not assign the HAP contract to a new owner without the prior written consent of the PHA.
  - b. If the owner requests PHA consent to assign the HAP contract to a new owner, the owner shall supply any information as required by the PHA pertinent to the proposed assignment.
  - c. The HAP contract may not be assigned to a new owner that is debarred, suspended or subject to a limited denial of participation under HUD regulations.
  - d. The HAP contract may not be assigned to a new owner if HUD has prohibited such assignment because:
    - 1) The federal government has instituted an administrative or judicial action against the owner or proposed new owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
    - 2) A court or administrative agency has determined that the owner or proposed new owner violated the Fair Housing Act or other federal equal opportunity requirements.
  - e. The HAP contract may not be assigned to a new owner if the new owner (including a principal or other interested party) is the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the family of such determination) that approving the assignment, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.
  - f. The PHA may deny approval to assign the HAP contract if the owner or proposed new owner (including a principal or other interested party):
    - 1) Has violated obligations under a HAP contract under Section 8;
    - 2) Has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
    - 3) Has engaged in any drug-related criminal activity or any violent criminal activity;
    - 4) Has a history or practice of non-compliance with the HQS for units leased under the Section 8 tenant-based programs, or non-compliance with applicable housing standards for units leased with project-based Section 8 assistance or for units leased under any other federal housing program;
    - 5) Has a history or practice of failing to terminate tenancy of tenants assisted under any federally assisted housing program for activity engaged in by the tenant, any



member of the household, a guest or another person under the control of any member of the household that:

- a) Threatens the right to peaceful enjoyment of the premises by other residents;
  - b) 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;
  - c) Threatens the health or safety of, or the right to peaceful enjoyment of their residents by, persons residing in the immediate vicinity of the premises; or
  - d) Is drug-related criminal activity or violent criminal activity;
- 6) Has a history or practice of renting units that fail to meet State or local housing codes; or
- 7) Has not paid State or local real estate taxes, fines or assessments.
- g. The new owner must agree to be bound by and comply with the HAP contract.
- 1) The agreement must be in writing, and in a form acceptable to the PHA.
  - 2) The new owner must give the PHA a copy of the executed agreement.

#### **D. Tenancy Addendum**

The HUD-required tenancy addendum is part of the HAP contract and the lease. The tenancy addendum sets forth the tenancy requirements for the HCV program.

1. The terms of the tenancy addendum are prescribed by HUD in accordance with federal law and regulation, as a condition for federal assistance to the tenant and tenant's family under the HCV program.
2. All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants.
3. The tenant shall have the right to enforce the tenancy addendum against the owner.
4. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

#### **E. Changes in the Lease or Rent**

If the tenant and the owner agree to any changes in the lease, the changes must be in writing, and the owner must immediately give the PHA a copy of the changes. The lease, including any changes, must be in accordance with the requirements of this section.

1. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with HCV program requirements and has executed a new HAP contract with the owner:
  - a. If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

- b. If there are any changes in lease provisions governing the term of the lease; and
  - c. If the family moves to a new unit, even if the unit is in the same building or complex.
- 2. PHA approval of the tenancy, and execution of a new HAP contract, are not required for changes in the lease other than as specified above.
- 3. The owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements.

## **CHAPTER 21: THE HAP SUBSIDY AND FAMILY SHARE**

The actual housing assistance payment (HAP) and family share can only be calculated after the family has selected a unit and the gross rent for the unit is known.

### **A. Total Tenant Payment (TTP)**

The total tenant payment (TTP) is the minimum amount a family must contribute toward rent and utilities regardless of the unit selected. The TTP is calculated using a statutory formula and the individual family income information.

1. To calculate the TTP, annual adjusted income and annual (gross) income must be converted to monthly adjusted income and monthly gross income by dividing the annual figures by 12 months.
2. The TTP is the greater of:
  - 30% of monthly adjusted income;
  - 10% of monthly gross income;
  - The welfare rent (in as-paid states only); or
  - The PHA minimum rent

### **B. Minimum Rent**

The minimum rent is the minimum rent payable by the family.

1. The PHA may establish a minimum rent up to \$50.00.
2. The PHA has established a minimum rent for the HCV program at \$50.00.

### **C. Minimum Rent Hardship Exemption**

The PHA recognizes that in some circumstances the minimum rent may create a financial hardship for families.

If the PHA adopts a minimum rent greater than \$0, the PHA must grant exemptions from the minimum rent requirement to any family if the PHA determines that the family is unable to pay the amount due to financial hardships, unless the hardship is temporary.

1. Financial hardship includes the following:
  - a. The family has lost eligibility or is awaiting an eligibility determination to receive federal, State, or local assistance, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
  - b. The family income has decreased due to changed circumstances such as separation, divorce, and/or abandonment;
  - c. One or more family members have lost employment;

- d. The family would be evicted as a result of imposing the minimum rent requirement;
  - e. There has been a death in the family; or
  - f. There are other hardship situations determined by the PHA on a case-by-case basis, i.e., alimony, child support, etc.
2. The PHA may request documentation of the hardship and will promptly, within five (5) calendar days, determine if the hardship is temporary or long term.
3. The PHA will suspend the minimum rent requirement and adjust the HAP accordingly beginning the month following the family's written request for a hardship exemption until the PHA determines whether there is a qualifying financial hardship, and whether the hardship is temporary or long term.
  - a. The financial hardship exemption only applies to payment of minimum rent for determining the TTP.
  - b. The TTP is still calculated excluding the minimum rent.
  - c. The family will pay the higher of 30% of the monthly adjusted income, 10% of the monthly income, or the welfare rent, as applicable, during the term of the suspended minimum rent.
4. Temporary Hardship Exemption

The PHA has defined a temporary hardship as a hardship to last less than 90 days.

- a. If the hardship is determined to be temporary, the PHA will not impose the minimum rent during the 90-day period beginning the month following the date the family's request for a hardship exemption.
  - b. At the end of the 90-day suspension period, the minimum rent is reinstated retroactively to the date of suspension.
  - c. The family must execute a Repayment Agreement for the back rent owed by the family.
5. Long Term Hardship Exemption

The PHA has defined long term hardship as a hardship that last more than 90 days.

- a. If the hardship is determined to be long term, the PHA will exempt the family from the minimum rent requirements for as long as such hardship continues.
  - b. The PHA shall apply this exemption from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.
  - c. The family is not required to repay the difference between the TTP and the minimum rent to the PHA once the hardship is over.
6. If the PHA is unable to determine if the hardship exemption will be temporary or long term, the PHA may approve a temporary hardship exemption and redetermine the family's status at the end of the temporary hardship exemption term.

7. No Qualifying Hardship
  - a. If the PHA determines there is no qualifying financial hardship, the PHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension.
  - b. The family must execute a Repayment Agreement for the back rent owed by the family.
8. Denial of a minimum rent hardship exemption is subject to the PHA's informal hearing process.

#### **D. Gross Rent**

The gross rent is the entire housing cost.

1. The gross rent is the rent to owner and the utility allowance for the unit.
2. If all the utilities are included in the rent to owner, the rent to owner and the gross rent are the same.
3. If the family chooses a unit with a gross rent that exceeds the payment standard, the family pays the TTP plus the amount by which the gross rent exceeds the payment standard.

#### **E. Maximum Subsidy**

The family unit size, as established by the PHA subsidy standards, is used in determining the maximum rent subsidy for the family.

1. The maximum subsidy the PHA can pay is the payment standard minus the TTP.
2. The maximum subsidy calculation is done at the time the family is issued the voucher.
3. The actual PHA subsidy will be calculated after the family has selected a specific unit.

#### **F. Maximum Initial Rent Burden**

At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40% of the family's monthly adjusted income.

1. The determination of adjusted monthly income must be based on verification received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.
2. The rent burden is applied each time the family moves to a new unit or signs the first assisted lease while leasing in-place where the gross rent of the unit exceeds the applicable payment standard for the family.
3. The rent burden does not apply to changes in the family share after move-in, such as owner request for a rent increase.
4. There is no exception to the statutory maximum initial rent burden for mixed families. The PHA will not approve a unit for which family share would exceed 40% of the adjusted income.

**G. Effect of the Unit Size Selection on Subsidy**

The PHA must allow the family to rent an acceptable unit even if the number of bedrooms is larger or smaller than the family's voucher size.

If the family selects a unit with a different number of bedrooms than the family unit size listed on the voucher, the PHA will apply the payment standard and utility allowance for the smaller of the family unit size listed on the family's voucher or the unit size selected by the family.

**H. The Housing Assistance Payment (HAP)**

The HAP is the monthly housing assistance payment made to the owner by the PHA on behalf of the family.

1. The HAP will be paid to the owner in accordance with the terms of the HAP contract.
2. HAP payments may only be paid to the owner during the lease term, and while the family is residing in the unit.
3. Calculation of the HAP
  - a. The actual HAP can be calculated only after the family has selected a unit and the gross rent for the unit is known.
  - b. The HAP cannot exceed the maximum subsidy calculated but may be less than the maximum subsidy if the gross rent for the unit is less than the payment standard amount.
  - c. The PHA shall pay a monthly HAP payment on behalf of the family that is equal to the lower of:
    - 1) The payment standard for the family minus the TTP; or
    - 2) The gross rent minus the TTP.
  - d. The PHA shall not pay a monthly HAP payment above the rent to owner.

**I. Zero HAP Subsidy**

1. Initial Lease-Up
  - a. If the calculation of the family's income results in a zero HAP subsidy before an initial lease-up, the PHA will not enter into a new HAP contract with the owner on behalf of the family.
  - b. The PHA will notify the family in writing that the request for tenancy approval has been denied, the family will be given another RFTA, and the suspended term of the voucher will be added to the end of the voucher term to allow the family additional time to search for another unit.

2. Reexaminations

If the calculation of the family's income results in a zero HAP subsidy during an annual or interim reexamination:

- a. The family may continue as an HCV program participant for 180 days from the effective date of the zero HAP subsidy.
- b. The family may remain in the assisted unit and will be responsible for paying the full amount of the contract rent to owner during the 180 days.
- c. The HAP contract between the PHA and the owner remains in effect during the 180 days.
- d. If the family's circumstances change during the 180-day period and the family again needs assistance, the family is responsible for timely reporting the change in their circumstances to the PHA and the PHA will conduct an interim reexamination to determine the family's portion of the contract rent.
- e. At the end of the 180 days, if the HAP subsidy has not been restored, the HAP contract will automatically terminate.
- f. Family moves during the 180-day period
  - 1) The family may request to move with continued assistance by providing the owner/landlord and the PHA a notice to vacate as per the lease.
    - a) The PHA will determine the family's eligibility to move with continued assistance.
    - b) If the family is eligible to move, the PHA will proceed with the lease-up process.
    - c) If the family is not eligible to move, the PHA will notify the family, in writing, of their ineligibility to move.
  - 2) If the family moves from the unit without giving proper written notice to the owner and the PHA, the family will be in violation of the lease and the obligations of the family and subject to termination of HCV assistance.
- g. The PHA will provide the family and the owner at least 30 days advance notification of the proposed termination and an opportunity for the family to request an informal hearing.
- h. The PHA will not consider a family with zero HAP subsidy as a break in continued assistance, except for a family whose HCV assistance was terminated for lease violations or violations of the obligations of the family.

## **J. HAP Controls and Accountability**

- 1. All HAP payments are computed in accordance with HUD approved formulas and schedules. The computations are reviewed before being submitted for payment.
- 2. PHA internal requests for HAP payments must be submitted no later than five (5) business days before the end of each month to ensure that HAP payments can be reviewed for accuracy and are made in a timely manner to the owners.
- 3. The PHA will maintain a HAP register to monitor timeliness and accuracy.

4. The HAP payment is considered received once it has been mailed or electronically deposited into the owner's account by the PHA.
5. The first HAP payment made on a new HAP contract is never considered for a late payment.
6. The PHA will generate the EIV Deceased Tenants Report prior to disbursing upcoming monthly HAP payments to owners.
  - a. The PHA will generate the EIV Deceased Tenants Report monthly.
  - b. The purpose of the EIV Deceased Report is to prevent, eliminate and/or recover improper HAP payments being made on behalf of deceased HCV tenants.

## **K. Deceased Tenants Report**

The PHA will generate the Deceased Tenants Report from the EIV system at least once per month prior to disbursing the upcoming monthly housing assistance payment to owners.

The PHA shall review the report, follow up with the listed families immediately, and take following administrative actions:

1. The PHA will immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member.
2. The PHA will notify the owner in writing of the deceased head of household.
3. Deceased single member household or remaining household member is a live-in aide:
  - a. The PHA will discontinue the HAP to the owner no later than the first of the following month after the month in which the death occurred.
  - b. The PHA must terminate assistance immediately for deceased single member household.
  - c. The owner is entitled to receive the full HAP amount for the month in which the death occurred.
  - d. The owner is not entitled to HAP for any month following the month in which the death occurred.
  - e. If the remaining household member is a live-in aide, the PHA must discontinue HAP to the owner no later than the first of the following month after the month in which the death occurred.
    - 1) The live-in aide is not entitled or eligible for any rental assistance or continued occupancy in the subsidized unit for any month after the month which the head of household died.
    - 2) The PHA may not designate the live-in aide as a new head of household or change the live-in aide's relationship code to make them an eligible household member.



4. Head of household deceased and remaining household members are minors.

The PHA will follow the policies in Chapter 24: Absences from Unit, Section C, Use of Caretaker due to Absence of Head of Household.

5. Household member incorrectly identified as deceased
  - a. The PHA will immediately notify the individual in writing and advise the individual to contact SSA so that SSA may correct its records as only the SSA can correct erroneous death information.
  - b. The PHA will also provide the individual with their section of the EIV Income Report which shows the death information.
  - c. The PHA may provide the minor's EIV information to the minor's adult parent or guardian.
  - d. The PHA will document the family file that the individual was reported as deceased but that the PHA confirmed the individual is still alive.

#### **L. HAP Late Payments to Owners**

The HAP contract provides for penalties against the PHA for late payments of the HAP payment due to the owner. To assess such penalties, all of the following circumstances must apply:

1. The penalties follow the generally accepted practice and law in the local housing market governing penalties for late payment of rent by the tenants.
2. It is the owner's practice to charge both assisted and unassisted tenants' penalties for late payments.
3. The owner also charges such penalties against the tenant for late payment of family rent to owner.
4. PHA will not be penalized for circumstances which are beyond the PHA's control.
5. The PHA may only use administrative fee income or administrative fee reserve to pay a late payment penalty.

#### **M. Family Share**

The family share is the family's portion of the rent to owner plus the applicable utility allowance, if any, paid by the family. The family share cannot be calculated until a unit is selected.

1. The family share is calculated by subtracting the amount of the HAP payment from the gross rent.
2. Payment of the whole family share is the responsibility of the family.

3. Unit Selection and the Family Share
  - a. If a family leases a unit with a gross rent above the payment standard for the family, the family share is the TTP plus any amount by which the gross rent exceeds the payment standard.
  - b. If the family leases a unit with a gross rent at or below the payment standard, the family share will equal the TTP.
4. The PHA may not use HAP payments or other program funds (including any administrative fee reserve) to pay any part of the family share, including the family rent to owner.

## **N. Family Rent to Owner**

The family rent to owner is the portion of the rent to owner that is paid by the family.

1. The family rent to owner is calculated by subtracting the amount of the HAP payment to the owner from the rent to owner.
  - a. If the family is not responsible for paying any utilities under the lease, family rent to owner will equal family share.
  - b. If the family is responsible for directly paying some or all of the utilities under the lease, family rent to owner will be less than the family share.
2. The part of the rent to owner which is paid by the family may not be more than:
  - b. The rent to owner; minus
  - c. The HAP payment to the owner.
3. The owner may not demand or accept any rent payment from the family in excess of the maximum PHA determined family rent to owner and must immediately return any excess rent payment to the family.
4. The family is not responsible for any PHA portion of the rent to owner, as determined by the PHA and outlined in the HAP contract between the owner and the PHA.
5. If the calculation of family rent to owner results in a negative amount, which results in the family rent to owner as zero, there will be a utility reimbursement.

## **O. Utility Reimbursement**

Is the amount by which the HAP payment exceeds the rent to the owner.

1. When there is a utility reimbursement, the PHA pays the full amount of the rent to owner and sends a utility reimbursement payment to the family or the utility supplier.
  - a. The PHA will pay the utility reimbursement directly to the family.
  - b. If the utility reimbursement payment is less than forty-five (\$45.00) dollars per month, the PHA may make quarterly utility reimbursement payments rather than monthly utility reimbursement payments.

- 1) The PHA will issue the reimbursement payments retroactively. The retroactive utility reimbursement payments will be issued as follows:
  - a) January – March utility reimbursement payments will be issued no later than March 31<sup>st</sup>;
  - b) April – June utility reimbursement payments will be issued no later than June 30<sup>th</sup>;
  - c) July – September utility reimbursement payments will be issued no later than September 30<sup>th</sup>;
  - d) October – December utility reimbursement payments will be issued no later than December 31<sup>st</sup>.

## **P. Prorated HAP**

For families that include both members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or elect not to state that they have eligible immigration status), the amount of housing assistance is prorated based on the percentage of household members who are citizens or have eligible immigration status in relation to the total number of members in the family.

To calculate prorated HAP, the PHA will follow the steps below:

Step 1. Determine the gross rent (rent to owner plus the utilities allowance) for the unit.

Step 2. Determine the normal total HPA, taking into consideration the income of all household members.

Step 3. Determine the proration percentage.

- a. The percentage of the family eligible for rent subsidy. A family with ineligible family members is only eligible for a percentage of the rent subsidy.
- b. Divide the number of eligible family members (citizens and those with eligible immigration status) by the total number of members in the family.
  - 1) The numerator is the total number of eligible family members who are citizens or have established eligible immigration status (eligible family members with citizenship codes of EC: Eligible citizen, EN: Eligible noncitizen, or PV: Pending verification on line 3i of the form HUD-50058. Do not include live-in aides or foster children/adults); and
  - 2) The denominator is the total number of family members (Total number of family members in the household. Do not include live-in aides or foster children/adults).

Step 4. Determine the prorated total HAP.

- a. The prorated housing assistance payment.
- b. Multiply the normal total HAP by the proration percentage.

Step 5. Determine the mixed family total family contribution.

- a. Is the mixed family total family contribution based on the proration calculation.
- b. Subtract the prorated total HAP from the gross rent of the unit.
- c. Where the mixed family total family contribution is negative, use zero (0).

Step 6. Utility allowance.

- a. The utility allowance is not prorated.
- b. If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that applies to the family occupied unit.
- c. If there is no utility allowance, use zero (0).

Step 7. Mixed family tenant rent to owner.

- d. The rent amount the family pays to the owner after subtracting the utility allowance from the mixed family total family contribution; or
- e. The total credit amount the family receives to pay for utilities.

Step 8. Prorated HAP to owner.

- a. The total prorated amount of the HAP payment to the owner.
- b. Subtract the mixed family tenant rent to owner from the rent to owner.
- c. If the mixed family tenant rent to owner is negative, use the rent to owner.

## **CHAPTER 22: REEXAMINATIONS**

The annual reexamination determines the continued eligibility of the family and establishes the HAP payment to be made on behalf of the family. Interim reexaminations are made because of changes in the family's circumstances between annual reexaminations or the last interim reexamination.

### **A. Annual Reexaminations**

A reexamination of family income and composition will be conducted by the PHA at least annually.

1. The annual reexamination date shall be the first day of the month of the anniversary date (12 months) of the initial HAP contract.
2. If the family moves to a new unit, the annual reexamination date will change based on the new effective date of the new HAP contract.
3. The annual reexamination will be conducted no later than 60 days prior to the first day of the anniversary month.

### **B. Annual Reexamination Appointment**

The PHA will maintain an annual reexamination tracking system and approximately 90 - 120 days in advance of the annual reexamination effective date the PHA will begin the annual reexamination process.

1. Scheduling the Annual Reexamination Appointment
  - a. The PHA will schedule the annual reexamination appointment within reasonable hours after reasonable notice.
  - b. Reasonable hours to conduct the annual reexamination appointment are between 8:30 a.m. and 3:30 p.m., Monday through Friday.
  - c. The PHA will provide the family a written annual reexamination appointment notice. The notice will:
    - 1) State the date and format with which the annual reexamination appointment will be conducted, the time of the appointment (if held by telephone, video call, video conference or Assistance Connect) and what information is required to be brought to the appointment.
    - 2) State the head of household is required to attend the annual reexamination appointment.
    - 3) The PHA will advise the family if the family contains a member who is a person with disabilities, that the family may request, as a reasonable accommodation, a home visit as an alternate format for the PHA to conduct the annual reexamination. The PHA may also conduct the annual reexamination by home visit as an alternate format for elderly families.

- d. The annual reexamination appointment may be conducted in the following format:
  - 1) Telephone
  - 2) Mail-in reexamination
  - 3) Email reexamination
  - 4) Video call
  - 5) Video conference
  - 6) Assistance Connect
- e. The PHA will provide annual reexamination documents in an accessible format for families with disabilities or families with Limited English Proficiency.
- f. The PHA will advise the family that a representative, of the family's choosing, may assist with the annual reexamination process.

## 2. Scheduling Conflict

The PHA will advise the family how to and when to request another appointment if there is a scheduling conflict.

- a. The family may contact the PHA to reschedule the first annual reexamination appointment up to two (2) days prior to the appointment date. The family may contact the PHA by:
  - 1) Phone call
  - 2) Email
  - 3) Fax
- b. The PHA will reschedule one (1) second annual reexamination appointment. The second annual reexamination appointment notice will be mailed or emailed promptly (within 10 days of the first appointment) and will be scheduled within five (5) business days or a date which has been mutually agreed upon by the PHA and the family.
  - 1) If the family fails to appear for the second appointment, the PHA will send the family a notice of termination and advise the family of their rights to request an informal hearing.
  - 2) The PHA may grant an exception for failure to contact the PHA timely to reschedule the appointment if:
    - a) The family is able to document an emergency situation;
    - b) The family has experienced extenuating circumstances that prevented the family from canceling or attending the annual reexamination appointment; or
    - c) If the family request as a reasonable accommodation for a family member who is a person with a disability.

3. Failure of the family to respond to either annual reexamination notice may result in termination of assistance.

### **C. PHA Interim Requirements**

At any time, the PHA may conduct an interim reexamination of the family income and composition.

1. The PHA must process an interim reexamination whenever one is requested by the family.
2. The PHA will conduct an interim reexamination:
  - a. For families where an error was made at admissions or annual reexamination.
    - 1) The family will not be responsible for retroactive rent for errors made by the PHA.
    - 2) The family will be responsible for retroactive rent if the family share was based on false or incomplete information supplied by the applicant or participant family.
  - b. When there is a change in family income (earned/unearned) including source, employer, decrease, increases, employment status, etc.
  - c. When there is a change (addition or removal) in family composition.

### **D. Family Interim Reporting Requirements**

At any time, the family may request an interim determination of family income or composition because of any changes since the last determination.

1. The family must report within 10 calendar days of occurrence, the following to the PHA:
  - a. Changes in family income, including but not limited to changes in the source (earned and/or unearned), employer, decrease, employment status, etc.
  - b. Any changes in the household composition, including additions and removal of household members.
  - c. Increases in allowable deductions/allowances that may affect the adjusted income.
2. The family must report the change in circumstance in writing using the Request for Interim Change form. The form is available:
  - a. At the PHA office
  - b. Online on the PHA's website
  - c. By email
  - d. Assistance Connect
3. The PHA may receive the Request for Interim Change form:
  - a. By mail
  - b. By email
  - c. By fax

- d. Drop box
  - e. Assistance Connect
4. The PHA will determine whether a reported change in the family's circumstances warrants an interim reexamination.

## **E. Interim Reexamination Appointments**

The PHA will maintain an interim reexamination tracking system to document the date interim changes were received and completed.

1. The Scheduling the Interim Reexamination Appointment
  - a. The PHA will schedule an interim reexamination appointment within reasonable hours after reasonable notice.
  - b. Reasonable hours to conduct an interim reexamination appointment are between 8:30 a.m. and 3:30 p.m., Monday through Friday.
  - c. The PHA will provide the family a written interim reexamination appointment notice. The notice will:
    - 1) State the date and format with which the interim reexamination appointment will be conducted, the time of the appointment (if held by telephone, video call, video conference or Assistance Connect), and what information is required to be brought to the appointment.
    - 2) State the head of household is required to attend the interim reexamination appointment.
    - 3) The PHA will advise the family if the family includes a member who is a person with disabilities, that the family may request, as a reasonable accommodation, a home visit as an alternate format for the PHA to conduct the interim reexamination. The PHA may also conduct the interim reexamination by home visit as an alternate format for elderly families.
  - d. The interim reexamination appointment may be conducted in the following format:
    - 1) Telephone
    - 2) Mail-in reexamination
    - 3) Email reexamination
    - 4) Video call
    - 5) Video conference
    - 6) Assistance Connect
  - e. The PHA will provide interim reexamination documents in an accessible format for families with disabilities or families with Limited English Proficiency.



- f. The PHA will advise the family that a representative, of the family's choosing, may assist with the interim reexamination process.

## 2. Scheduling Conflict

The PHA will advise the family how to and when to request another appointment if there is a scheduling conflict.

- a. The family may contact the PHA to reschedule the first interim reexamination appointment up to two (2) days prior to the appointment date. The family may contact the PHA by:
    - 1) Phone call
    - 2) Email
    - 3) Fax
  - b. The PHA will reschedule one (1) second interim reexamination appointment. The second interim reexamination appointment notice will be mailed or emailed promptly (within 10 days of the first appointment) and will be scheduled within five (5) business days or a date which has been mutually agreed upon by the PHA and the family.
    - 1) If the family fails to appear for the second appointment, the PHA will send the family notice of termination and offer them an informal hearing.
    - 2) The PHA may grant an exception for failure to contact the PHA timely to reschedule the appointment if:
      - a) The family is able to document an emergency situation;
      - b) The family has experienced extenuating circumstances that prevented the family from canceling or attending the interim reexamination appointment; or
      - c) If the family request as a reasonable accommodation for a family member who is a person with a disability.
3. Failure for the family to respond to either interim reexamination notice may result in termination of assistance.

## F. Interim Household Composition Reporting Requirements

The composition of the assisted family, including household members, residing in the unit must be approved by the PHA. No other persons, except those approved by the PHA, may reside in the assisted unit.

### 1. Addition of Family or Household Members

- a. Adding family members resulting from birth, court awarded custody or adoption does not require PHA approval. The family must notify the PHA within 10 calendar days of the addition.

- b. The family must request PHA approval to add a foster child/adult or live-in aide as a household member.
- c. Addition of Persons Aged Under 18 (Minor)

When the family requests to add a minor to the family composition, the following will be required:

- 1) Copy of birth certificate
- 2) Declaration of Citizenship form for the minor.
- 3) Copy of social security card for new household members at least six (6) years of age or is under age six (6) and has an SSA-assigned SSN.
  - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
  - b) If the family is unable to provide the required documentation of the SSN, the PHA will not add the new household member to the family composition until the family provides the documentation.
  - c) HUD does not authorize the PHA to generate an ALT ID for the affected household member.
  - d) Exception if the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 4) Copy of social security card for new household member who is under the age of six (6) and does not have an SSA-assigned SSN.
  - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 within 90 calendar days of the child being added to the household.
  - b) If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA will 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.
  - c) 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.
  - d) The PHA will generate an ALT ID.
  - e) Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA will terminate the entire family's housing assistance.

- f) An exception to the above occurs when the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 5) For a parent or another person having custody or guardianship of such a minor the PHA will require one of the following documents:
  - a) Court-order assignment;
  - b) Statement from parent/guardian assigning custody or guardianship;
  - c) Custody Agreement filed in a court of law;
  - d) Adoption papers; or
  - e) Verification from a social service agency.
- 6) Declaration of any income (earned or unearned) and assets (including income from assets) for the minor.
- d. Addition of Adults 18 Years of Age or Older

When the family requests to add an adult person to the family composition, the following will be required:

- 1) Copy of birth certificate
- 2) Copy of a government issued photo identification
- 3) Declaration of Citizenship form for the adult.
- 4) Copy of social security card for the new household members who has an SSA-assigned SSN.
  - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
  - b) The PHA must terminate the HCV assistance if the family does not disclose and provide the required documentation.
  - c) However, if the family is otherwise eligible for continued assistance 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:
    - (1) 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
    - (2) 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.

- d) If the family is unable to comply with the requirements by the specified deadline, the PHA will terminate the entire family's tenancy or assistance, or both.
  - e) The PHA must terminate the family's housing assistance if the family submits falsified SSN documentation.
  - f) An exception to the above if the adult does not contend to have eligible immigration status and has not been assigned an SSN.
- 5) Declaration of any income (earned or unearned) and assets (including income from assets) for the adult.
- 6) The individual will be required to sign form HUD-9886 (Authorization for Release of Information/Privacy Act Form) and other PHA consent forms.
- 7) The adult is subject to the same screening (criminal background check) and eligibility requirements as the assisted family.
- e. Prior to approving the request to add a family or household member, except additions due to birth, court awarded custody or adoption, the PHA will generate:
  - 1) The EIV Former Tenant and Existing Tenant Reports for all minors and adults to determine if there is a SSA match involving another PHA or Multifamily entity.
  - 2) The Debts Owed to PHAs Report to determine if requested adult owes a debt to the PHA, another PHA or Multifamily entity.
- f. Denial of the Request to Add Family or Household Member
  - 1) The PHA will notify the family in writing if there is a determination to deny the request to add a family or household member.
  - 2) The assisted family may request a review of the PHA decision to deny the request.
  - 3) The family may request an informal hearing for the denial.
- 2. Removal of Family or Household Members
  - a. The family must promptly, within 10 calendar days notify the PHA if any family or household member no longer resides in the unit.
  - b. Failure to report the removal of a family or household member timely, may result in the family owing a retroactive rent and/or termination from assistance.

## **G. Verification of Annual/Interim Reexamination Information**

The PHA will use EIV in its entirety to verify family employment and income during mandatory and interim reexaminations of family income and composition. The PHA will review the EIV Income and IVT Reports during mandatory and interim reexaminations of family income and/or composition to reduce family under reporting of income and improper subsidy payments. The PHA will follow the HUD Verification Hierarchy and the PHA's verification procedures.

1. The PHA will obtain and document in the family file third-party verification of the following factors, or will document in the family file why third-party verification was not available:
  - a. Reported family annual income;
  - b. The value of the family's assets;
  - c. Expenses related to deductions from annual income; and
  - d. Other factors that affect the determination of the family's adjusted income.
  - e. The PHA will maintain the EIV Income Report in the family file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for mandatory and interim reexaminations of family income and composition.
2. Verifications for reexaminations must be an original or authentic document generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
3. The family will be obligated to supply any information that the PHA or HUD determines is necessary for use in regularly scheduled or interim reexamination of family income and composition. Failure to provide documentation may result in termination of assistance.
4. The family must submit consent forms for obtaining wage and claim information from federal, State, or local agencies to furnish or release to the PHA such information determined necessary. The family's failure to comply with consent forms will result in termination of assistance.

## **H. Increases in Rent to the Owner**

The owner may request an increase in the rent to owner after the initial the term of the lease.

1. Owner submission of the request of rent to owner increase.
  - a. The owner must serve the family a notice of increase in the rent to owner as per the terms of the lease.
  - b. The owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect.
2. Upon receipt of the notice of increase in rent to owner and before the PHA may approve any rent increase to the owner, the PHA must determine and document whether the proposed rent increase to owner is reasonable compared to similar units in the marketplace and not higher than rents paid by unassisted tenants in the premises.
  - a. In areas where there is rent control, the PHA must determine whether or not rent control restrictions will impact the request for rent increase.
  - b. In cases where the PHA cannot justify the rent increase through rent reasonableness, the owner must be notified in writing.

- c. The owner may appeal the PHA's decision, by providing the PHA with similar units in the marketplace with the requested rent to owner and/or unassisted comparable units on the premises receiving the requested rent to owner.
3. If the PHA does not approve the increase to rent to owner, the family cannot assume the burden of the rent increase.
4. Subsequent rent increases during the family's occupancy of the unit that causes the family share to exceed 40% of monthly adjusted income is permissible so long as the PHA has determined the new rent to owner reasonable.
5. The PHA approved increase to rent to owner will equal the lesser of:
  - a. The reasonable rent as determined by the PHA; or
  - b. The amount requested by the owner.
6. Owners may request, and HUD may approve, a special increase in the rent to owner pursuant to the HAP Contract.

## I. Effective Dates of Interim Reexaminations

The PHA will process interim income reexaminations in accordance with the chart below:

| <b>INTERIM REEXAMINATION EFFECTIVE DATES</b>   |   |
|--|---|
| <b>Income Change</b>   | <b>PHA Action</b>   |
| Decreases in income (earned/unearned) and/or increase in a deduction lasting less than 30 days.                              | The PHA will not process an interim reexamination if the PHA has verified and determined that the decrease in income and/or increase in deduction lasted less than 30 days.   |
| Decreases in income (earned/unearned) and/or increase in a deduction lasting 30 days or more.                                | The decrease in the family share will be effective the first day of the month following the timely report of the decrease in income and/or increase in deduction.   |
| Increase in income (earned/unearned) and/or decrease in a deduction lasting 30 days or more reported timely by the family.   | The increase in family share will be effective the first day of the month following a written 30-day notice to the family from the PHA.   |
| Increase in income (earned/unearned) and/or decrease in a deduction lasting 30 days or more reported untimely by the family. | The increase in family share will be effective the first day of the month following a written 30-day notice from the PHA. The family may be responsible for retroactive rent, effective the month following the effective date of the occurrence of the change, for failing to report changes timely. |

## J. Notification of the Annual/Interim Reexamination Results

The PHA will notify both the owner and family of the results of the annual/interim reexamination in writing.

## 1. Annual Reexamination Notification

- a. The notice will include the following:
  - 1) The amount and effective date of the new HAP amount;
  - 2) The amount and effective date of the new tenant rent; and
  - 3) The amount and effective date of the new rent to owner (if applicable).
- b. For increases in family share at annual reexamination, the PHA will complete annual reexaminations in advance so that the effective date is the first day of the month of the anniversary month of the HAP contract following a 30-day notice from the PHA.
- c. Decreases in family share at annual reexamination are effective the first day of the month of the anniversary month of the HAP contract.
- d. If the family caused a delay in the reexamination process or failed to report all income and deductions the PHA will complete the annual reexamination using the best available information.
  - 1) The PHA will complete an interim reexamination to correct the file.
  - 2) If the family owes a retroactive rent, the family will be required to enter into a Repayment Agreement.
  - 3) The family's assistance may be terminated due to a violation of the obligations of the family.
- e. If the TTP increased as a result of the annual reexamination, the PHA will advise the family of their rights to request an informal hearing.

## 2. Interim Reexamination Notification

- a. If interim reexamination results in no change in the family share, the PHA will notify the family of such in writing.
- b. If the interim reexamination results in a change to the family share, the notice will include the following:
  - 1) The amount and effective date of the new HAP amount;
  - 2) The amount and effective date of the new tenant rent; and
  - 3) The amount and effective date of the new rent to owner (if applicable).
- c. If the tenant rent increased as a result of the interim reexamination, the increase will be effective the first day of the month following a 30-day notice to the family from the PHA.
- d. If the family failed to report the interim change timely and the tenant rent increased as result of the interim reexamination, the family may be responsible for retroactive rent, effective the month following the effective date of the occurrence of the change.
- e. Decreases in tenant rent will be effective the first day of the month following the timely report of the decrease in income and/or increase in deduction.

## CHAPTER 23: ZERO-INCOME FAMILIES

A zero-income family is a family who reports no source of income (earned or unearned) and no regular contributions and/or gifts during the most recent eligibility or reexamination process. A family who reports zero income will be required to provide information regarding how the family pays for necessary living expenses.

1. Special Reexaminations
  - a. The PHA will schedule a special reexamination of income and family composition with the family who reports zero income every 90 days using the same notice used for the annual reexamination process.
  - b. To ensure each zero-income family is treated consistently, the PHA will:
    - 1) Ask the family questions using the PHA's Zero Income Questionnaire.
    - 2) Generate the EIV Income and the IVT Reports for each family.
    - 3) Provide each family the EIV brochure, "What You Should Know About EIV"
    - 4) Advise each family about the minimum rent hardship exemption and how to request an exemption
    - 5) Follow the HUD Verification Hierarchy and the PHA's verification procedures.
2. If the family reports no income (earned or unearned), regular monetary or non-monetary (in kind) contributions, or gifts from any source, all adult household members will be required to sign and date, under penalty of perjury, an individual zero income statement.
  - a. The family will be required to provide to the PHA receipts for all expenses (e.g., food and clothing, utility bills) for the most recent three (3) month period.
  - b. The PHA will annualize the amount of the receipts, except for HUD mandatory income exclusions, and the information generated from the EIV Income and IVT Reports to determine annual income.
3. If the family reports or the PHA determines that the family is receiving regular monetary or non-monetary (in kind) contributions or gifts from any source, the value will be annualized to determine annual income.
  - a. When outside sources are paying bills or donating household goods on a regular basis, the value of these contributions (unless a HUD required exclusion) will be included as annual income.
  - b. The family will be required to provide the names and contact information for all sources of regular contributions or gifts.
4. If the family's income cannot be projected with any reasonable degree of accuracy, the PHA will continue to schedule a special reexamination every 90 days.



## CHAPTER 24: ABSENCES FROM UNIT

The family may be absent from the unit for brief periods.

### A. Family Absence from the Unit

Absence means that no member of the family listed on the lease is residing in the unit.

#### 1. Time Limits on Family Absences

The PHA establishes how long the family may be absent from the unit.

- a. The family must promptly, within 10 calendar days of occurrence, notify the PHA of the family's absence from the unit.
  - b. The family may not be absent from the unit for a period of more than 60 consecutive calendar days without written consent from the PHA.
  - c. The Executive Director or designee may approve an absence of up to 180 consecutive calendar days for extraordinary reasons, such as but not limited to military leave, hospitalization, or imprisonment.
  - d. Under no circumstances may the family be absent from the unit for a period of more than 180 consecutive days.
2. If the family is absent for longer than the maximum period permitted by the PHA or if the family is absent for more than 180 consecutive days, including if the family has left possessions in the unit, the PHA shall terminate the family's housing assistance.
- a. The HAP contract will be terminated if the family is absent for longer than the maximum period permitted.
  - b. The assisted lease will also be terminated when the HAP contract is terminated.
  - c. The family may reapply when the PHA's waiting list is open.
  - d. The PHA shall inform the family of its rights to request an informal hearing if the housing assistance is terminated.
  - e. The owner must reimburse the PHA for any HAP payment for the period after termination.
3. VAWA exception: If the family is absent or has moved from the unit in violation of the lease and without notice to the PHA in order to protect the health or safety of a person who is or has been the victim of a VAWA crime and who reasonably believes to be threatened with imminent harm from further violence by remaining in the unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move), and has otherwise complied with all other obligations under the HCV program, the family may receive a voucher from the PHA to locate a safe unit.

**B. Absence of Children Because of Placement in Foster Care**

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the absence from the unit of any children listed on the lease due to placement in foster care. The PHA will contact the agency responsible for the children's placement in foster care to determine the approximate length of time the children are expected to be away from the unit.

1. If the agency indicates that the children are expected to return to the unit at some point, the children will remain a part of the family composition and will be counted toward the family's subsidy standard but will not be counted as dependents until they return to the unit.
2. If the children are not expected to be returned to the unit, the children will be removed from the family composition and the family's subsidy standard will be reduced accordingly.
3. If the agency indicates that it is unknown whether the children will be returned to the unit, the children will remain a part of the family composition.
4. Oral conversations with the agency will be thoroughly documented in the family file, including the date of contact, name and title of contact person, name of agency, telephone number, and the details of the conversation.

**C. Use of Caretaker Due to Absence of Head of Household**

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the absence of the head of household due to imprisonment, hospitalization, military service, etc. Upon notification to the PHA, when the head of household is absent from the unit as a result of imprisonment, hospitalization, military service, etc., and there are no other adult household members, upon approval of the PHA, another adult may move into the unit to care for the children, while the head of household is absent.

1. The rental assistance will not be terminated.
2. The head of household's name shall be temporarily removed.
  - a. The family composition will be modified to include the name of the caretaker as head of household.
  - b. The PHA will document the file and explain the circumstances.
  - c. The original head of household will be reinstated as the head of household upon their return.
3. The caretaker's income will not be included in the family income.
4. Upon the head of household's return, upon PHA approval, the caretaker may leave or remain as part of the household as long as the addition of the caretaker would not result in a violation of HQS.
  - a. If the caretaker remains, their income will be included in the calculation of family annual income.

- b. The family will also need approval from the owner/landlord to add the caretaker as a member of the household.

#### **D. Temporarily Absence Due to Military Service or School**

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the absence of family members due to military service or school.

1. Head of Household, Spouse, or Co-Head

If the head of household, spouse or co-head is temporarily absent from the unit to serve in the military or to attend school, the PHA shall include their income in the calculation of annual income.

2. Other Family Members

If a family member other than the head of household, spouse or co-head is temporarily absent from the unit to serve in the military, attend school, the family has the option of:

- a. Considering the family member temporarily absent from the household. In this case, the temporarily absent family member:
  - 1) Income will be included in annual income;
  - 2) Name will remain on the lease and HAP contract; and
  - 3) Will be counted toward the voucher size.
- b. Considering the family member permanently absent from the household. In this case, the former member of the household:
  - 1) Income will not be included in annual income;
  - 2) Name will be removed from the lease and HAP contract; and
  - 3) Will not be counted toward the voucher size.
  - 4) If the family wishes to add the former member back to the household as a family member again, the former member will be required to meet the PHA screening criteria prior to being added back to the household.

#### **E. Absence Due to Hospitalization or Admittance into a Nursing Home**

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the family member's absence of the unit due to hospitalization or admittance into a nursing home.

1. Sole Member

- a. When the family consists of only one member and that person is absent from the unit to go into a hospital or nursing home for a period of more than 90 days, the assistance will be terminated.
- b. If a medical provider documents that the person is expected to return to the unit in 89 days or less, the sole member shall continue to receive assistance.

- c. Under no circumstances may the family be absent from the unit for a period of more than 180 consecutive days.

## 2. Other Family Members

If a family member other than the head of household, spouse or co-head is temporarily absent from the unit because of admittance into the hospital or nursing home, the family has the option of:

- a. Considering the family member temporarily absent from the household. The temporary absent family member:
  - 1) Income will be counted in annual income;
  - 2) Name will remain on the lease and HAP contract; and
  - 3) Will be counted for the voucher size.
- b. Considering the family member permanently absent from the household. The former member of the household:
  - 1) Income will not be counted in annual income;
  - 2) Name will be removed from the lease and HAP contract; and
  - 3) Will not be counted for the voucher size.
  - 4) If the family wishes to add the former member back to the household as a family member again, the former member will be required to meet the PHA screening criteria prior to being added back to the household.

## F. Verification of Absence from the Unit

The family must supply any information or certification requested by the PHA to verify that the family is residing in the unit or relating to the family's absence from the unit.

1. The family must provide the PHA any PHA-requested information or certification on the purposes of the family absence.
2. The PHA may utilize appropriate techniques to verify family occupancy or absence, including but not limited to sending notifications/letters to the family at the unit, phone calls, visits to the unit, interviews/questions to the owner/landlord or neighbors, or verify with the utility suppliers if the utilities are in service.

## **CHAPTER 25: FAMILY BREAK-UP**

The PHA has discretion to determine which members of an assisted family continue to receive HCV assistance if the family breaks up. The decision to determine who continues to receive the assistance will be made by the Executive Director or designee.

### **A. Criteria for the PHA Decision**

The factors to be considered in making this decision may include but are not limited to the following:

1. Whether the assistance should remain with family members remaining in the original assisted unit.
2. What is the best interest of minor children or of ill, elderly, or disabled family members.
3. Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
4. Whether any of the family members are receiving protection as victims of a VAWA crime and whether the abuser is still in the household.
5. Recommendations of social services professionals.

### **B. VAWA Crimes**

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance.

### **C. Court Orders**

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

### **D. Remaining Family Member**

Remaining family members are family members of an assisted family who remains in the unit when other members of the family have left the unit.

1. A single adult (whether elderly or non-elderly, disabled or non-disabled, with or without children) who is a remaining family member may become the head of household.
2. A live-in aide is not a member of the assisted family and is not entitled to the HCV as a remaining member of the family.
3. A minor child(ren) will not be allowed to retain status of remaining family member(s) unless:
  - a. The court has awarded emancipated minor status to the child(ren); or

- b. An eligible court appointed legal guardian, designee of a parent with written permission, or the designee of a legal custodian with written permission moves into the unit with the minor child(ren).
  - 1) If the PHA is presented with conflicting claims regarding custody of the minor child(ren), the PHA may require evidence of court-awarded custody or legal guardianship.
  - 2) The designee shall be covered only in the absence of a contradictory claim of custody from another party.
- 4. If both parents must leave the household and the proper legal authorities, such as the Department of Social Services and/or the Juvenile Court, has determined that another adult is to be brought into the assisted unit to care for the child(ren) for an indefinite period, the PHA will treat that adult as a visitor for 60 days.
  - a. After that period, the PHA office will determine whether:
    - 1) The court has awarded emancipated minor status to the child(ren);
    - 2) Custody or legal guardianship has been granted to the caretaker; or
    - 3) The parent or other person having such custody of the child(ren) have given written permission for a designee (caretaker) to have such custody of the child(ren).
      - a) If the PHA is presented with conflicting claims regarding custody of the child(ren), the PHA may require evidence of court-awarded custody or legal guardianship.
      - b) The designee (caretaker) shall be covered only in the absence of a contradictory claim of custody from another party.
  - b. Prior to the PHA transferring the assistance to the caretaker:
    - 1) The PHA will ensure that the caretaker meets all the PHA's screening criteria, including the criminal history check.
    - 2) The PHA will generate:
      - a) The EIV Former Tenant and Existing Tenant Reports to determine if there is an SSA match involving another PHA or Multifamily program.
      - b) The Debts Owed to PHAs Report to determine if the caretaker owes a debt to the PHA, another PHA, or to a Multifamily program.
        - (1) The PHA will follow-up on any issues identified.
        - (2) The PHA will maintain a report and document the family file.

## CHAPTER 26: MOVES WITH CONTINUED ASSISTANCE

A participant family may move with continued assistance under the HCV program, either inside the PHA jurisdiction or under portability procedures.

### A. Eligibility to Move

A participating family is eligible to move with continued tenant-based assistance if any of the following occur:

1. The assisted lease for the old unit has terminated. This includes a termination because:
  - a. The lease has expired and either the owner/landlord or family decided not to renew.
  - b. The PHA has terminated the HAP contract for the owner's/landlord's breach; or
  - c. The lease has terminated by mutual agreement of the owner/landlord and the family.
2. The owner/landlord has given the family a notice to vacate, or has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner/landlord to evict the family.
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to the owner, for owner breach, or otherwise) after the initial term of the lease.
4. Victims of a VAWA crime
  - a. The family or a member of the family, is or has been the victim of a VAWA crime and the move is needed to protect the health or safety of the family or family member, or
  - b. If any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
  - c. The PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of a VAWA crime and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit.
5. The PHA may conduct a reexamination of family income and composition prior to the family's move to ensure the income verification is within 60 days before the PHA issues the voucher.

## **B. Denying the Family's Request to Move**

1. The PHA will prohibit:
  - a. More than one move by the family during any 12-month period.
  - b. Moves by the family during the initial term of the lease.
  - c. If the family owes a debt to the PHA or to another PHA.
  - d. Moves by families that have moved out of their assisted unit in violation of the lease.
2. Exceptions to prohibitions on family moves
  - a. As a reasonable accommodation for families with members who are persons with disabilities.
  - b. Victim of a VAWA crime
    - 1) The above policies do not apply when the family or a member of the family is or has been a victim of a VAWA crime and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
    - 2) A family may receive a voucher from the PHA and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the HCV program and has moved out of the assisted dwelling unit in order to protect the health and safety of an individual who is or has been the victim of a VAWA crime 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.
  - c. The PHA may allow the family to terminate the lease during the initial term if the owner agrees, in writing, to release the family from the lease or if the lease provides for such termination.
  - d. Harassment
    - 1) Harassment in housing or housing related transactions on the basis of race, color, religion, sex, disability, familial status, and national origin is prohibited under the Fair Housing Act.
    - 2) The PHA will not deny a family's request to move when a family member is subject to harassment because of race, color, religion, sex, disability, familial status, or national origin that causes the family to vacate the unit.
3. The PHA may deny a request to move for the following reasons:
  - a. The family's action or failure to act as described in 24 CFR § 982.552 or 982.553.
  - b. The family has violated a family obligation.
  - c. If the PHA does not have sufficient funding for continued assistance.



### **C. Denying Requests to Move Due to Insufficient Funding**

The PHA may deny a family's request to move, including moves under portability, if the PHA does not have sufficient funding for continued assistance.

1. The PHA may only deny a request to move due to insufficient funding if all the following apply:
  - a. The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves).
    - 1) Higher cost unit:
      - a) Is defined as a unit in which the PHA would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.
      - b) The PHA may not deny a family's request 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.
      - c) 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.).
      - d) If the family is moving under portability, the PHA may deny the move under the circumstances in paragraph (c) above if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.
    - 2) Higher cost area:
      - a) 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.
      - b) A PHA may not deny request to move due to insufficient funding if the area the family has selected is not a higher cost area.
  - b. The receiving PHA is not absorbing the voucher (applicable only to portability moves).

If the receiving PHA will bill the initial PHA for the portability voucher and the cost of the HAP will increase due to the move, the initial PHA may deny the move if the initial PHA does not have sufficient funding for continued assistance.
  - c. The PHA would be unable to avoid termination of current families during the calendar year in order to remain within the PHA's budgetary allocation (including any available HAP reserves) for housing assistance payments.
2. The PHA may not deny a family's request to move due to insufficient funding because the PHA wishes to admit additional families from its waiting list into the HCV program, regardless of whether the PHA has unit months available to do so.

3. If the PHA approves a family's request to move within in the PHA's jurisdiction or approves a portability move, then experiences a funding shortfall, the PHA may rescind the voucher only if the family is allowed to remain in their current unit.
  - a. If the family is not allowed to remain in their current unit (e.g., the family has already vacated the unit or the family has already notified the owner of their intent to vacate the unit and the owner has re-let the unit to another family or the unit failed HQS), the PHA must not rescind the voucher.
  - b. The PHA must allow the family to lease a new unit.
4. If the PHA is the initial PHA, the PHA may not terminate a portability voucher under a billing arrangement with the receiving PHA for insufficient funding because the initial PHA is not a party to the HAP contract. As the initial PHA, the PHA may not impose a cap on the amount of HAP the PHA will pay for a family that has moved under portability.
5. The PHA must provide written notification to the local HUD Office within 10 business days of the date on which the PHA made the determination to deny a family move based on insufficient funding.
6. The written notification to the local HUD Office must include the following documentation:
  - a. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.
  - b. A statement certifying the PHA has ceased issuing vouchers and will not admit families from the waiting list while the limitation on moves is in place.
  - c. A copy of the PHA's policy stating how the PHA will address families who have been denied moves.
7. The PHA will inform families of the PHA's policies regarding denying a move due to insufficient funding by:
  - a. Including the PHA's policies regarding denying a move due to insufficient funding in both the HCV briefing packet and the annual reexamination packet.
8. If the PHA denies a family's request to move, including a portability move, due to insufficient funding:
  - a. The PHA will create a list of families who moves have been denied due to insufficient funding.
  - b. The family will be notified by first class mail. The notice will include the following policy statements:
    - 1) The PHA will not admit families from the waiting list while the denial of moves due to insufficient funding is in place.
    - 2) At the time funding becomes available, families who have been denied requests to move due to insufficient funding will be notified by first class mail that they may now exercise their right to move.

- 3) Families denied the request to move due to insufficient funding will be notified of their right to move on a first come, first served basis starting with the family that was first denied the request to move due to insufficient funding.
- 4) Families denied the request to move due to insufficient funding will take priority over families on the PHA waiting list.
- 5) The family's request to move will be open for consideration as long as the family remains eligible to move from the current unit.

#### **D. Notice of Family Move**

The family may terminate tenancy after the initial term of the lease.

1. The family must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner.
  - a. The family must give the owner notice of termination of the lease in accordance with the lease.
  - b. The family must provide a copy of the notice of termination of the lease to the PHA.
2. The family must notify the PHA if the family desires continued assistance in another unit.
3. Failure to notify the PHA and the owner before the family moves out of the unit is a breach of the obligations of the family.
4. Agreement to Remain in Occupancy
  - a. If the family does not locate a new dwelling, they may be required to submit an "Agreement to Remain in Occupancy".
  - b. The assisted tenancy may be extended for any period of time mutually agreed upon by the owner/landlord and family.
  - c. Absence of the Agreement to Remain in Occupancy, the HAP payments and the HAP contract may terminate at the end of the Notice to Move issued by the family.

#### **E. VAWA Emergency Transfer Plan**

The PHA shall adopt a VAWA Emergency Transfer Plan based on the HUD's model VAWA Emergency Transfer Plan which will allow tenants receiving HCV assistance and who are victims of domestic violence, dating violence, sexual assault or stalking to request an emergency transfer if:

1. The tenant expressly requests the transfer; and
2. The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
3. In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault

occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

4. The tenant who is a victim of sexual assault may make an imminent harm request regardless of when or where the sexual assault occurred and the PHA may permit more than 90-calendar days from the date of the sexual assault.
5. The tenant may qualify for either an internal emergency transfer or external transfer.
  - a. An internal emergency transfer is the relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
  - b. An external emergency transfer is the relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.
6. The tenant may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
7. The PHA shall maintain existing VAWA strict confidentiality measure in its Emergency Transfer Plan as to not disclose the location of the new unit to the abuser.
8. The PHA will make the Emergency Transfer Plan available upon request and when feasible, make the plan publicly available.
9. The PHA will keep a record of all emergency transfers requested under its Emergency Transfer Plan and the outcome of the requests.
  - a. The PHA shall retain these records for a period of three (3) years or for a period of time as specified by program regulations.
  - b. The PHA must report the requests and outcomes to HUD annually.
10. An emergency transfer request must not be construed to supersede any PHA eligibility or other occupancy requirements.

## CHAPTER 27: PORTABILITY

The term “portability” refers to the process of leasing a unit with tenant-based HCV assistance outside of the jurisdiction of the PHA that initially issued the family its voucher (the initial PHA). The PHA which receives the family that has ported from the initial PHA’s jurisdiction is the receiving PHA.

The PHA may act as both the initial PHA and receiving PHA, whereas the PHA may move families out of the PHA’s jurisdiction and families may wish to move into the PHA’s jurisdiction.

The provisions of portability do not apply to the Project-Based Voucher (PBV) program, as PBV housing assistance subsidy is tied to the unit, not the family.

### A. Portability Eligibility Requirements

Eligible families may utilize their portability option to lease a tenant-based voucher unit outside the jurisdiction of the initial PHA, anywhere in the United States and its territories, in jurisdictions of PHAs with a tenant-based voucher housing program.

#### 1. Applicant Residency Requirements

The PHA will determine if an applicant family selected from the waiting list meets the residency requirement based on the family’s residence (domicile) at the time that the family initially submitted their application for assistance, not at the time the family reached the top of the PHA’s waiting list.

##### a. Resident Applicant:

An applicant that has not yet leased-up under the HCV program is eligible for portability if the head of household or spouse was a resident in the PHA’s jurisdiction at the time the application for HCV assistance was submitted.

- 1) The applicant head of household or spouse must provide proof of their domicile (legal residence) in the initial PHA’s jurisdiction as determined by state and local law.
- 2) Acceptable proof of residency includes but are not limited to:
  - a) Valid and unexpired government issued driver’s license or photo ID.
  - b) Current and unexpired voter’s registration card.
  - c) Current state vehicle registration.
  - d) Paycheck stub or letter of employment on company letterhead signed by the Human Resource Manager.
  - e) Receipt of benefits, including health benefits, from any federal, State, or local agency.
  - f) Current W-2 with residence address.
  - g) Military discharge paperwork (DD214).

- h) Current lease or mortgage documents.
- i) Utility bill (e.g., electric, gas, water, cable).
- j) School transcripts.

b. Non-resident Applicant:

An applicant that has not yet leased-up under the HCV program is not eligible for portability if the head of household or spouse was not a resident in the PHA's jurisdiction at the time the application for HCV assistance was submitted. The applicant must utilize their assistance within the PHA's jurisdiction for at least 12 months before utilizing their portability option to move to another PHA's jurisdiction.

- 1) The PHA will allow a non-resident applicant to utilize the portability option as a reasonable accommodation for a family that includes a member who is a person with disabilities.
  - 2) The PHA will not permit a non-resident applicant to utilize the portability option.
  - 3) The PHA will provide portability to a non-resident applicant if the applicant or a member of the applicant family is or has been the victim of a VAWA crime, and the move is needed to protect the health or safety of the applicant or applicant family member, or any applicant family member who has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the applicant family's request to move.
- c. The portability residency requirements are not applicable for applicants of the HUD-VASH program.
- d. Once a HAP contract is executed on behalf of the applicant family, the family becomes an HCV participant.

2. Participant Families

Are families that have been admitted to the PHA program and are currently assisted in the HCV 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).

- a. The PHA shall not allow the participant family to utilize their portability option if the family has moved out of the unit in violation of their lease, except if:
- 1) The family moved out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of a VAWA crime and who reasonably believes him/herself to be threatened with imminent harm from further violence by remaining in the dwelling unit, or
  - 2) Any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move and has otherwise complied with all other obligations under the HCV program.

- b. The PHA shall not allow the participant family to utilize their portability option for the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
3. Income Eligibility
  - a. Applicants: Applicant families who wish to utilize the portability option must meet the applicable HUD income limits in the receiving PHA jurisdiction.
    - 1) If the family meets all HCV eligibility criteria but is not income eligible in the receiving PHA's jurisdiction, the PHA will deny the applicant family's request to move to that receiving PHA's jurisdiction and will inform the applicant family they may not move to the receiving PHA jurisdiction due to income ineligibility.
    - 2) The applicant family must be income eligible in the area where the family initially leases a unit with HCV assistance.
  - b. Participant Families: Income eligibility does not apply and is not redetermined when a participant family moves to a receiving PHA's jurisdiction under portability.

## **B. Use of Email or Other Delivery Confirmation Method**

The PHA will use email or another delivery confirmation method to communicate between the initial PHA or receiving PHA. Future references of contact between the initial PHA and receiving PHA in this Administrative Plan means the contact was made in writing by email or other delivery confirmation method.

## **C. Initial PHA Responsibilities**

This section outlines the responsibilities of the PHA when the family notifies the PHA of its desire to relocate outside of the PHA's jurisdiction. When a family moves out of the jurisdiction of the PHA with a voucher issued by the PHA, the PHA is the initial PHA.

1. Providing Information About Portability
  - a. As part of both the oral voucher briefing and the briefing information packet when applicants are selected from the waiting list, the PHA must provide information to all families about where the family may lease a unit, including an explanation of how portability works and how portability may affect the family's assistance.
  - b. Although the PHA is not required to provide an oral voucher briefing or briefing information packet when a participant family wishes to exercise their portability option, the PHA is required to provide information to all families about where the family may lease a unit, including how portability works and how portability may affect the participant family's assistance.
2. Determine the Family's Eligibility to Move Under Portability

Once the family informs the PHA of their desire to move under portability and where they want to move to, as the initial PHA, the PHA will determine the family's eligibility to move in accordance to Section A of this chapter.

### 3. Selecting the Receiving PHA.

The family must inform the PHA of the area to which the family wishes to move.

- a. If more than one PHA administers the HCV program in the area where the family wishes to move, the PHA will provide the family with the contact information for all the receiving PHAs that serve that area.
- b. The family has the option to select the receiving PHA when there is more than one PHA that serve that area.
- c. If the family request it, the PHA must select the receiving PHA on behalf of the family. If the PHA selects the receiving PHA, the PHA is not required to provide the contact informational for all the receiving PHAs that serve that area.

### 4. Initial Contact with the Receiving PHA

Once the receiving PHA has been selected and prior to approving the family's portability request, the PHA must contact the receiving PHA to determine if the receiving PHA will absorb the family into their program or bill the PHA.

- a. The receiving PHA must respond to the PHA in writing, of whether it will absorb the family or bill the PHA.
- b. If the receiving PHA makes the commitment to absorb the family into its program, the receiving PHA cannot reverse its decision at a later date without the consent of the PHA.
- c. It is the responsibility of the PHA, not the family, to contact the receiving PHA to determine whether the receiving PHA will absorb the family into its program or bill the PHA.

### 5. Portability Voucher Issuance

Once the portability request and billing/absorption arrangement have been approved, the PHA will:

- a. Issue the family a voucher to move, if the PHA has not already done so.
- b. Issue the voucher the same as would be issued for other voucher holders.

### 6. Family Contact to the Receiving PHA

Once the receiving PHA has been selected and the portability request approved, the PHA will advise the family how to contact and request assistance from the receiving PHA.

- a. The PHA will provide the following information to the family:
  - 1) Name of the receiving PHA
  - 2) Telephone number
  - 3) Email of the receiving PHA staff responsible for incoming portability families (if available)



- 4) Any information shared by the receiving PHA with the PHA relating to appointments for voucher issuance
  - b. A simple referral to HUD or to the receiving PHA's website does not fulfill the PHA's responsibilities of providing contact information to the family.
  - c. The family failure to contact the receiving PHA may delay the family's lease-up in the receiving PHA's jurisdiction.
7. Portability Information
- a. The PHA will promptly notify the receiving PHA to expect the portable family.
  - b. The PHA must send the receiving PHA the following completed documents:
    - 1) Form HUD-52665 (Family Portability Information), Part I, Initial PHA Information and Certification
    - 2) A copy of the voucher (HUD-52646) issued by the PHA
      - a) The voucher must be current and unexpired
      - b) The voucher must be signed and dated by the family and the PHA
    - 3) The most recent form HUD-50058 (Family Report) and copies of all related verification information for the current form HUD-50058.
      - a) The form HUD-50058 is the latest form HUD-50058 completed for either a new admission, annual reexamination, or interim reexamination. It is not the form HUD-50058 that the PHA completes to report the portability move-out.
      - b) In the case of an applicant family, the PHA has not yet completed the form HUD-50058 in its entirety because the family is not yet a new admission. The PHA must provide the partially completed form HUD-50058 for the applicant family to the receiving PHA. The income information must be in a format similar to the form HUD-50058 so that the information is easily available for use by the receiving PHA.
    - c) For special purpose vouchers (HUD-VASH, NED, FUPF/FUPY, NHT) the PHA must include the special purpose voucher code on line 2n of the form HUD-50058.
    - d) Copies of supporting of family composition and verification information
      - (1) Copies of photo identification, including immigration identification
      - (2) Declaration of citizenship forms
      - (3) Copies of birth certificates
      - (4) Copies of verification of assets, income and deductions/allowances
  - 4) Although, not required, the PHA will also provide the following to the receiving PHA:
    - a) Earned Income Disallowance information, if applicable

- b) Information on reasonable accommodations, if applicable

## **D. Receiving PHA Responsibilities**

This section outlines the responsibilities of the PHA when a family moves into the PHA's jurisdiction under portability. When a family moves into the PHA's jurisdiction with a voucher issued by an initial PHA, the PHA now becomes the receiving PHA.

### **1. Initial Contact with the Initial PHA**

After the initial contact from the initial PHA, promptly contact the initial PHA and advise if the PHA will absorb the family into its program or bill the initial PHA.

- a. If the PHA informs the initial PHA that the PHA will absorb the portable family into its program, the PHA cannot reverse its decision at a later date without consent of the initial PHA.
- b. If the PHA informs the initial PHA that the PHA will bill the initial PHA, the PHA can absorb the family at a future date.

### **2. Requirement to Administer Assistance**

- a. As the receiving PHA, the PHA must administer the incoming portable voucher in accordance with the PHA's policies and procedures.
- b. The PHA cannot refuse to assist an incoming portable family or refer/direct the family to another neighboring PHA for assistance.
- c. The PHA cannot have a policy of denying an incoming portability family if there is not a set number of days left on the initial PHA's voucher.

### **3. Portability Information**

Once the portability information has been received from the initial PHA, the PHA will:

- a. Review the portability information for completeness.
- b. If the portability paperwork is incomplete, the PHA will contact the initial PHA the same day or the next business day and advise of the incomplete paperwork.

### **4. Within two (2) weeks after receipt of the completed portability information from the initial PHA, the PHA will schedule a briefing/interview with the portable family.**

### **5. Receiving PHA Rescreening and Reexaminations**

The PHA may screen the family using the receiving PHA's established admission criteria, policies for denial or termination of assistance, or conduct new reexamination certifications.

#### **a. Applicant Families:**

The receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to redetermine income eligibility, due to but not limited to new income, a reduction in household composition, or addition of household members.

b. Participant Families:

- 1) The receiving PHA does not redetermine the income eligibility of a portable family that is already receiving HCV assistance.
- 2) The receiving PHA may choose to conduct a new income reexamination but may not delay issuing the portable family a voucher or otherwise delay approval of a unit.
- 3) The receiving PHA may take subsequent action against the family based on the results (e.g., recalculating the HAP payment based on updated income information).

c. Denial or Termination of Assistance

The receiving PHA may rescreen families who have moved into their jurisdiction under portability by applying the receiving PHA's policies for denial or termination of assistance.

- 1) The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed.
  - 2) The receiving PHA may take subsequent action against the family based on the results of the rescreening.
  - 3) If the receiving PHA refuses a portability move, the initial PHA is not precluded from assisting the family either in the initial PHA's jurisdiction or by allowing the family to port to another receiving PHA.
- d. If the PHA refuses to process or provide assistance under portability, the family must be given the opportunity for informal review or informal hearing.

6. Determining Unit Size

The family unit size for the family will be based on the receiving PHA's subsidy standards. The receiving PHA will determine the family unit size for the family based on the subsidy standards of the receiving PHA.

7. Receiving PHA Voucher Issuance

The receiving PHA must issue a voucher to the portable family for the family's search in the receiving PHA's jurisdiction.

a. Delaying of the issuance of the voucher

- 1) The receiving PHA cannot delay issuing the family a voucher or delay approval of a unit during the receiving PHA's screening process.
- 2) The receiving PHA may delay the issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures.

b. Term of the Receiving PHA's voucher

- 1) The term of the voucher issued by the receiving PHA may not expire before 30 calendar days from the expiration date of the voucher issued by the initial PHA.
- 2) If the voucher issued by the initial PHA expires before the family arrives at the receiving PHA, the receiving PHA will contact the initial PHA to determine if the initial PHA will extend the voucher.

8. Suspension and Extension of the Portability Voucher

Any extension of the term of the voucher by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction.

a. Mandatory Voucher Suspensions

- 1) The receiving PHA must suspend the term on the family's voucher when the family submits a request for tenancy approval.
- 2) The voucher suspension will end when the receiving PHA notifies the family in writing whether the request for tenancy approval was approved or denied.
- 3) In cases where the suspension 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.
  - a) If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 days.
  - b) If the initial PHA did not receive the portability form within the new 30-day deadline, the initial billing is late.

b. Portability Voucher Extensions

- 1) Once the receiving PHA issues a voucher to the portable family, the receiving PHA's policies on extension of the voucher term apply.
  - a) The receiving PHA may extend the voucher term beyond the additional 30 days based on the receiving PHA's policies regarding voucher extensions.
  - b) The receiving PHA must ensure that the extension of the voucher term does not exceed the initial PHA's billing deadline, if the receiving PHA is billing the initial PHA.
  - c) The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a RFTA, execute the HAP contract, and cover the anticipated delivery time of the initial billing.
- 2) The receiving PHA must notify the initial PHA of any extension granted to the term of the voucher.

#### 9. Notifying the Initial PHA

The PHA must promptly notify the initial PHA, by completing the form HUD-52665, Part II A and B, if:

- a. The family has leased and eligible unit, or
- b. The family failed to submit a request for tenancy approval for an eligible unit prior to the expiration of the voucher term.

### **E. Family Decides Not to Lease in the Receiving PHA's Jurisdiction**

If the incoming portable family decides not to lease in the receiving PHA's jurisdiction:

1. The receiving PHA must refer the family back to the initial PHA.
2. 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.
3. Extension 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.
4. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction.

### **F. Portability Billing**

Regulations provide that the receiving PHA may bill the initial PHA for HAP payments and administrative fees to fund the assistance for a portable family. 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 are addressed in this section.

1. Initial Billing
  - a. The initial PHA must enter the date by which the initial billing must be received by the initial PHA on the form HUD-52665, Part I.
  - b. The receiving PHA must complete and send form HUD-52665, Part II A and B, and the new form HUD-50058 to the initial PHA within 90 days following the expiration date of the initial PHA's voucher.
2. Initial and Subsequent Billing Payments
  - a. Initial Payment: The initial PHA must pay the initial billing amount within 30 calendar days of the receipt of the form HUD-52665 from the receiving PHA.
  - b. Subsequent Payments: The initial PHA must pay no later than the 5<sup>th</sup> business day of each month for each month that the billing arrangement is in effect.
  - c. The initial PHA must continue to make the subsequent payments until the billing arrangement is terminated.

### 3. Timely Changes in Billing Amount

- a. The receiving PHA must send a new form HUD-52665, Part II A and B, to report a change in the billing amount along with form the new HUD-50058.
- b. The receiving PHA must notify the initial PHA of changes in the billing amount no later than 10 business days following the effective date of the change.

### 4. Untimely Report of Change in Billing

- a. 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.
- b. If the HAP change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payment until the difference is reconciled.

### 5. Termination of Billing

- a. 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.
- b. The receiving PHA must send an updated form HUD-52665 A and B to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement.

| <b>Portability Billing Summary</b> |   |
|------------------------------------|---|
| Billing Type                       | Deadline  |
| Initial Billing                    | 90 days from the expiration date of the initial PHA's voucher<br><br>30 additional days if delayed billing is due to suspension of the voucher's term |
| Initial Billing Payment            | 30 days from receipt of initial billing   |
| Subsequent Payments                | 5 <sup>th</sup> business day of the month   |
| Change in the Billing Amount       | 10 <sup>th</sup> business days from effective date of change  |
| Termination of Billing Arrangement | 10 business days from effective date of termination   |

## **G. Portability Absorption**

The receiving PHA may absorb the family into its HCV program provided it has funding available under its ACC and the decision will not result in over-leasing for the Calendar year.

1. The receiving PHA does not technically absorb a portable family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction.

2. The receiving PHA has 10 business days from the effective date of the absorption to send an updated form HUD-52665 A and B to the initial PHA.
3. Retroactive absorptions are not allowed.
4. Once the receiving PHA absorbs the family into its HCV program, the initial PHA may close-out the file.

## **H. Controls and Accountability**

The initial PHA will never submit an action code 6, End of Participation, for a family that has ported to another jurisdiction, including when the receiving PHA absorbs the family.

If the portable family decides to leave the HCV program or is in violation of the obligation of the family, either the initial PHA or receiving PHA may make a determination to deny or terminate the family's assistance in accordance with 24 CFR 982.552 and 982.553.

## **CHAPTER 28: PROGRAM INTEGRITY**

Fraud is a criminal act in which individuals, groups, or businesses steal taxpayers' monies from HUD and its programs. Fraud can also lead to acts of violent crime. When fraud occurs, residents and tenants become victims and HUD's programs are abused. Tenants who make false statements regarding their income or family size, or alter official documents, are committing fraud. HUD-assisted rental housing employees who engage in bribery, contract bid rigging, embezzlement, or who alter, forge, or destroy records are committing fraud.

### **A. Investigation of Suspected Abuse or Fraud**

The PHA will initiate an investigation of a family in the event of one or more of the following circumstances:

1. Referrals, Complaints or Tips
  - a. The PHA will follow up on referrals from other agencies, companies or persons which are received by mail, email, fax, telephone, or in person, which allege that a family is in non-compliance with, or otherwise, violating the lease, or any other program rules.
  - b. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable.
  - c. A copy of the allegation will be retained in the family's file.
  - d. Anonymous complaints will be investigated if the information received contains specific allegations that can be independently verified. If the anonymous complaint is not specific, the information will be retained in files, but will not be used to initiate investigations.
2. PHA Detection of Suspected Abuse or Fraud
  - a. PHA Staff Awareness and Observations
    - 1) The PHA staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and indications of unreported income. The observations will be documented in the family's file.
    - 2) PHA staff discovers (as a function of a certification or reexamination, an interim reexamination, or a quality control review), information or facts that conflict with previous file data, the PHA's knowledge of the family, or is discrepant with statements made by the family.
  - b. PHA Quality Control File Reviews

On a random basis, an appropriate number of family files will be reviewed for accuracy and completeness. Such reviews will be completed by knowledgeable PHA staff who was not directly involved in the processing of such files. Such reviews shall include, but are not limited to:

    - 1) Assurance that verification of all income and deductions is present;



- 2) Changes in reported SSNs or dates of birth are noted;
  - 3) File documents are authentic;
  - 4) Ratio between reported income and expenditures is accurately computed; or
  - 5) Review of signatures are consistent with previously signed file documents.
3. Verification or Documentation
- A follow-up will be made if the PHA receives EIV/UIV verification, independent verification or documentation that conflicts with representations in the family's file (such as public record information, or credit bureau report, or reports from other agencies).

## **B. Steps to Investigating Allegations of Possible Abuse and Fraud**

If the PHA determines that an allegation or referral warrants follow-up, the PHA staff member responsible for the family file will conduct the follow-up investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, the PHA will secure the written authorization from the family for the release of information.

1. Interviews with head of household or other family members.
  - a. The PHA will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment with the family.
  - b. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews.
  - c. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated.
  - d. If possible, an additional staff person will attend such interviews.
2. Employers and Ex-Employers

Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
3. Other Agencies

Investigators, caseworkers, or representatives of other benefit agencies may be contacted.
4. Public Records
  - a. If relevant, the PHA will review public records kept in any jurisdictional courthouse.
  - b. Examples of public records which may be checked are; real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.
5. Credit Bureau Inquiries (CBI)

In cases involving previously unreported income sources, a CBI (with proper authorization by the family) may be made to determine if there is financial activity that conflicts with the reported income of the family. CBI inquiries may be made in the following circumstances:

- a. If at the time of the final eligibility determination the information provided by the applicant conflicts with information obtained through outside sources or third-party verifications.
- b. When the family's expenditures exceed reported income, and no plausible explanation is given.
- c. When an allegation is received by the PHA wherein unreported income sources are disclosed.

6. 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.

7. Neighbors/Witnesses

Neighbors and/or other witnesses may be interviewed if it is believed that they have direct or indirect knowledge of facts pertaining to the PHA's review.

### **C. Responding to Allegations of Possible Abuse and Fraud**

The PHA will review allegations that contain one or more independently verifiable facts.

1. An internal file review will be conducted to determine:
  - a. If the subject of the allegation is a Section 8 participant and, if so, to determine if the information reported has been previously disclosed by the family.
  - b. It will then be determined if the PHA is the most appropriate authority to do a follow-up (more so than police or social service). Any file documentation of past behavior, as well as corroborating complaints, will be evaluated.
2. 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 PHA will initiate an investigation to determine if the allegation is true or false.

### **D. Maintaining Evidence and Statements Obtained by the PHA**

Documents and other evidence obtained by the PHA during the course of an investigation will be kept in the family's file, or in a separate "work file."

### **E. Evaluation of Findings**

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud);
2. Whether the violation was intentional or unintentional;
3. What amount of money (if any) is owed by the family; and
4. If the family is eligible for continued participation in the HCV program.

## **F. Resolving Confirmed 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 payment owed by the family.

#### **a. Examples of Non-Compliance Violations are:**

- 1) Failure to appear at a pre-scheduled appointment;
- 2) Failure to return verification in the time period specified by the PHA.

#### **b. Warning Notice to the Family**

In such cases, a notice will be sent to the family which contains the following:

- 1) A description of the non-compliance and the procedure, policy or obligation which was violated;
- 2) The date by which the violation must be corrected, or the procedure complied with;
- 3) 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;
- 4) The consequences of repeated (similar) violations.

### **2. Procedural Non-Compliance - Retroactive Payments**

When the family owes money to the PHA for failure to report required changes, the PHA will issue a Notification of Overpayment. This notice will contain the following:

- a. A description of the violation and the date(s);
- b. Any amounts owed to the PHA;
- c. A 10-calendar day response period; and
- d. The right to disagree and to request an informal hearing with instructions for the request of such hearing.

#### **1) Family Fails to Comply with PHA's Notice.**

If the family fails to comply with PHA's notice, and a material provision of the lease has been violated, the PHA will initiate termination of tenancy.

#### **2) Family Complies with PHA's Notice.**

- a) When the family complies with the PHA's notice, the PHA will meet with the family to discuss and explain the program provision that was violated.
- b) The PHA will complete a family counseling report, provide a copy to the family, and retain a copy in the family's file.

## **G. Misrepresentations**

When the family falsifies, misstates, omits, or otherwise, misrepresents a material fact which results (or would have resulted) in an underpayment of the family's share, the PHA will evaluate whether or not the family had knowledge that their actions were wrong, and the family willfully violated the lease or the law.

1. Knowledge that the action or inaction was wrong
  - a. This will be evaluated by determining if the family was made aware of HCV program requirements and prohibitions.
  - b. The signature of the head of household, spouse, co-head, and other adult household members 18 years old or older on various PHA documents, such as but not limited to the Obligations of the Family, Application for Admission, Application for Continued Assistance, document to report an interim change, Personal Declaration, and Things You Should Know are adequate to establish knowledge of wrongdoing.

2. The family willfully violated the law

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- a. An admission by the family of the misrepresentation;
- b. The act was done repeatedly;
- c. If a false name or SSN was used;
- d. If there were admissions to others of the illegal action or omission;
- e. The family omitted material facts which were known to them (e.g., employment of self or other household members);
- f. The family falsified, forged, or altered documents; and
- g. The family uttered and certified to statements at a mandatory reexamination or interim reexamination, which were later independently verified to be false.

## **H. The Family Conference for Serious Violations and Misrepresentations**

When the PHA has established that material misrepresentation(s) has occurred, the PHA will schedule an interview with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the family misrepresentation(s).

This conference will take place prior to any proposed action by the PHA.

1. The purpose of such conference is to review the information and evidence obtained by the PHA with the family, and to provide the family an opportunity to explain any documented findings which conflict with representations in the family's file.
  - a. The PHA will take into consideration any documents or mitigating circumstances presented by the family.

- b. The family will be given 10 days to furnish any mitigating evidence.
2. The secondary purpose of the appointment is to assist the PHA in determining the course of action most appropriate for the family's case. Prior to the final determination of the proposed actions, the PHA will consider:
  - a. The duration of the violation and number of false statements;
  - b. The family's ability to understand the rules;
  - c. The family's willingness to cooperate and to accept responsibility for the family's actions regarding the amount of money involved;
  - d. The family's past history; and
  - e. Whether or not criminal intent has been established.

## **I. Disposition of Cases Involving Misrepresentation**

In all cases of misrepresentation 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:

### **1. Criminal Prosecution**

If the PHA has 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 Regional Inspector General for Investigations (RIGI), and terminate the HCV housing assistance.

### **2. Administrative Remedies**

The PHA will terminate HCV housing assistance and demand payment of restitution in-full.

### **3. PHA Legal Action**

If an amount of \$10,000 or more dollars is owed to the PHA due to family fraud, the PHA will seek restitution through legal judicial channels.

### **4. Continue Assistance**

Contingent upon full lump-sum restitution or minimal term repayment plan and warning that repeat of the offense will result in immediate termination of HCV housing assistance.

## **J. Notifying Participant of Proposed Action**

1. The PHA will notify the family, by pre-paid first-class mail, of the proposed action no later than three (3) business days after the appointment.
2. All notices will advise the family of their right to an informal hearing.

## **CHAPTER 29: DEBTS OWED TO THE PHA**

When an action or inaction of the family results an overpayment of HAP payment, the PHA must hold the family liable to repay any overpayment of HAP to the PHA. This tenant rent underpayment is referred to as retroactive rent. If the PHA discovers that the owner owes the PHA a portion of the HAP payment to which the owner is not entitled, the owner is required to reimburse the PHA.

### **A. Reasons for Retroactive Rent**

The family is required to reimburse the PHA if the family was charged less tenant rent than required by HUD's rent formula due to the family's underreporting or failure to report income.

1. The family may owe the PHA retroactive rent due to any of the following:
  - a. The applicant family owes the PHA monies from a previously tenancy or assistance
  - b. The family's failure to report income
  - c. The family underreporting of income
  - d. The family's failure to report or underreported changes in deductions or allowances
  - e. Other unreported or underreported changes
  - f. Temporary minimum rent hardship exemption
2. The PHA must determine retroactive rent amounts as far back as the PHA has documentation of family unreported or underreported income. Documents may include but is not limited to:
  - a. Initial, reexamination, and interim applications
  - b. EIV Income Reports, IVT Report, Income Discrepancy Reports
  - c. Form HUD-50058 and supporting documents

### **B. Establishing the Repayment Agreement**

The Repayment Agreement is a formal document prepared by the PHA and entered into between the PHA and the family whereas the head of household acknowledges the debt and the amount owed to the PHA. It is similar to a promissory note but contains more details regarding the nature of the debt, the terms of repayment, special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

1. The Repayment Agreement must be:
  - a. In writing;
  - b. Dated;
  - c. Include the total retroactive rent amount owed;
  - d. Amount of lump sum payment made at the time of execution of the Repayment Agreement, if applicable;

- e. The monthly repayment amount; and
  - f. Signed by both the PHA and head of household.
2. The Repayment Agreement shall contain at a minimum the following provisions:
  - a. Reference of the paragraph in the HCV Informational Briefing Packet whereby if the family is in non-compliance with the Repayment Agreement, that the family may be subject to termination of tenancy or assistance, or both.
  - b. A statement that the monthly retroactive rent repayment amount is in addition to the family's regular tenant rent contribution.
  - c. A statement that the monthly retroactive rent repayment amount is payable to the PHA.
  - d. The terms of the Repayment Agreement may be renegotiated if there is a decrease or increase in the family's income.
  - e. Late or missed payments constitute default of the Repayment Agreement and may result in termination of tenancy and/or assistance.
3. The PHA has the discretion to establish thresholds and policies for Repayment Agreements in addition to HUD required procedures.

### **C. Retroactive Payment Amount and Timeframe**

The PHA shall set the monthly retroactive payment at an amount the family can afford based on the family's income.

1. The family has the option to repay the retroactive rent balance as follow:
  - a. In a lump sum payment;
  - b. Monthly installments; or
  - c. A combination of a lump sum payment and monthly installments.
2. Lump Sum Payment

The PHA will require the family to make a down payment of the retroactive rent amount.

- a. The down payment amount shall be not less than 5% of the total amount of the retroactive rent owed to the PHA.
  - b. The down payment amount shall be subtracted from the total amount of the retroactive rent owed to the PHA and the difference shall be paid in monthly payments until paid in full.
3. Monthly Retroactive Rent Payments
  - a. The monthly retroactive rent payment plus the amount of the tenant rent the family pays at the time the Repayment Agreement is executed should be affordable and not exceed 40% of the family's monthly adjusted income.

- b. Monthly retroactive rent payments are due payable to the PHA by the 15<sup>th</sup> day of the month and shall be considered delinquent on the 30<sup>th</sup> day of the month.
  - 1) If the 15<sup>th</sup> day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.
  - 2) If the 15<sup>th</sup> day of the month falls on a holiday (federal, State, or local), the retroactive payment will be due the 16<sup>th</sup> day of the month. If the 16<sup>th</sup> day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.
- c. The PHA shall not impose a late fee for delinquent retroactive rent payments.
- d. The family, at its discretion, will be allowed, with no penalty, to pay more than the required monthly payment amount.
- e. The retroactive rent payments are payable to the PHA, and retroactive payments will be accepted by:
  - 1) Money order
  - 2) Cashier check
  - 3) Cash
- 4. Retroactive Rent Repayment Time Period

The PHA shall have full discretion in establishing the number of months in the Repayment Agreement for the family to repay the debt owed to the PHA.

  - a. The period in which the retroactive rent amount will be repaid will be based on the amount of the lump sum payment made at the time the Repayment Agreement was executed, the monthly payments, the retroactive rent balance, and affordability for the family.
  - b. The PHA may consider family circumstances and family income when establishing the number of months in the Repayment Agreement.

#### **D. Enforcing Repayment Agreements**

The PHA shall not require terms or prohibitive payment that will force the family to leave the program.

- 1. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.
- 2. The family shall be required to make monthly payments until the debt is paid in full.
- 3. The PHA may terminate the family's assistance if the family is three (3) or more months delinquent on the payments.
- 4. The PHA shall terminate the family's assistance if the family:
  - a. Fails to make payments as agreed on an existing or new Repayment Agreement.
  - b. Refuses to enter into a Repayment Agreement



5. Prior to the issuance of a voucher to move, the family must pay the retroactive rent amount in full.
6. The PHA will require the family to bring their retroactive rent payment current prior to issuance of a voucher to move to another unit, if the move is for following reasons:
  - a. To protect the health and safety of victims of a VAWA crime.
  - b. As a reasonable accommodation for a family with a member who is a person with disabilities.
  - c. The HAP contract is terminated due to owner non-compliance with HQS.
  - d. The family size exceeds the HQS maximum occupancy standards.
  - e. A natural disaster declared.

#### **E. Repayment Agreement with Previous Tenant or Program Participant**

In some instances, families who were previously on a federally assisted housing program moved owing the PHA, another PHA, or a Multifamily housing program a debt.

1. If such a family applies for HCV housing assistance and during the application process it is found that the applicant was a previous tenant who left owing a debt to the PHA, another PHA, or Multifamily program, the PHA will require the applicant to:
  - a. If the debt is owed to the PHA, the applicant must pay the debt in full to the PHA before being issued a voucher, or
  - b. If the debt is owed to another PHA or Multifamily program, the applicant must enter into a Repayment Agreement with the other PHA or Multifamily program to whom the debt is owed and pay the debt in full before being issued a voucher.
2. If the applicant states the debt owed to the PHA, other PHA, or Multifamily program has been paid in full, the PHA will require the applicant to provide documentation from the other PHA or the Multifamily program who the debt was owed to verify that the debt was paid in full. The PHA will research its records to determine if the debt to the PHA was paid in full.
3. If the applicant is currently in a Repayment Agreement with the PHA, another PHA, or a Multifamily program, the PHA will require the applicant to:
  - a. If the debt is owed to the PHA, the applicant must pay the debt in full to the PHA before being issued a voucher, or
  - b. If the debt is owed to another PHA or Multifamily program, the applicant must provide documentation from the PHA or Multifamily program who holds the Repayment Agreement and pay the debt in full before being issued a voucher.

## **F. Ineligibility for Repayment Agreements**

The PHA will not enter into more than one Repayment Agreement with the family.

1. The PHA will not enter into a Repayment Agreement with a family that currently has an active Repayment Agreement in effect.
2. The PHA will not enter into another Repayment Agreement if the family already has a Repayment Agreement in effect and incurs any additional debt to the PHA.
  - a. Any new debt to the PHA must be paid in full within 30 days of notice to the family of the new debt.
  - b. Failure for the family to pay the new debt in full may be grounds for termination of assistance.
3. The PHA will not enter into a Repayment Agreement with a family that has breached a previous Repayment Agreement with the PHA, another PHA, or Multifamily program to pay amounts owed to the PHA, another PHA, or Multifamily program.
4. The PHA shall not offer a Repayment Agreement to the family if the amount of the retroactive rent owed to the PHA is in excess of \$5,000.
  - a. The PHA will terminate the family's assistance, and
  - b. The PHA shall make every effect to recover the debt using a variety of collection tools, including but not limited to:
    - 1) Collection agencies
    - 2) Small claims courts
    - 3) Civil lawsuit
    - 4) State income tax set-off program
5. If the PHA determines that the family committed willful and intentional fraud, the PHA will require the family to repay the entire amount in full or the PHA will terminate the assistance.

## **G. Debts Owed to PHAs and Terminations**

HUD maintains a national repository of debts owed to PHAs or Section 8 landlords and adverse information of former participants who have voluntarily or involuntarily terminated participation in the HCV program (including the Disaster Housing Assistance Program).

1. This PHA will maintain this information within HUD's EIV system, Debts Owed to PHA's and Termination Module.
2. The PHA will collect the following adverse information once the family's participation in the HCV program has ended, whether the family voluntarily or involuntarily moves out of the assisted unit:
  - a. Amount of any balance the family owes the PHA or Section 8 landlord (up to \$500,000) and explanation for balance owed (i.e., unpaid rent, retroactive rent (due to unreported

- income and/or change in family composition) or other charges such as damages, utility charges, etc.);
- b. Whether or not the family has entered into a Repayment agreement for the amount that the family owes the PHA;
  - c. Whether or not the family has defaulted on a Repayment Agreement;
  - d. Whether or not the PHA has obtained a judgment against the family;
  - e. Whether or not the family has filed for bankruptcy; and
  - f. The negative reason(s) for the family's end of participation or any negative status (i.e., abandoned unit, fraud, lease violations, criminal activity, etc.) as of the end of participation date.
3. The PHA shall maintain the debt owed and termination information in EIV for a period of 10 years from the end of participation date or such date consistent with state law.

#### **H. Owner Debt to the PHA**

If the owner has received HAP payments to which the owner is not entitled, the PHA may recover such amounts from the owner.

1. Overpayment of HAP to owner may include but not be limited to:
  - a) Failure of owner to notify PHA unit was vacated by the family.
  - b) Failure of owner to notify PHA of a deceased tenant.
  - c) Non-compliance of owner's unit with HQS.
  - d) Failure of owner to notify PHA of change in owner supplied utilities.
2. The owner shall be required to reimburse the PHA for any overpaid HAP amounts within 30 days of the PHA's determination and notification to the owner of the debt. If the owner fails to repay the debt within the required timeframe and is entitled to future HAP payments, the PHA may:
  - a. Reduce the future HAP payments by the amount owed until the debt is paid in full.
  - b. Enter into a Repayment Agreement with the owner for repayment of the debt over a period of time.
3. If the owner refuses to repay the debt, fails to enter into a Repayment Agreement, or breaches a Repayment Agreement, the PHA will terminate the HAP contract and ban the owner from future participation in the PHA's HCV program and pursue other means for collection of the debt.

## **CHAPTER 30: TERMINATION OF ASSISTANCE AND HAP CONTRACTS**

The PHA may terminate assistance for a family because of the family's action or failure to act. The PHA may also terminate the HAP contract if the owners fail to comply with their obligations under the terms of the HAP contract.

The PHA will provide families with a written description of the obligations of the family under the HCV program, grounds under which the PHA can terminate assistance, and the informal hearing procedures.

### **A. Termination of Assistance**

Termination of assistance of a family may include:

1. Refuses to enter into a HAP contract or approve a lease.
2. Terminating the HAP payments under an outstanding HAP contract.
3. Refusing to process or provide assistance under portability procedures.

### **B. Automatic Terminations of the HAP Contract**

The HAP contract terminates automatically when:

1. The family moves from the assisted unit;
2. The PHA terminates program assistance for the family;
3. The owner and the family terminate the lease;
4. The owner evicts the family; or
5. The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.
  - a. This determination does not preclude the family from asking to terminate assistance immediately, nor does it impact any rights under the lease.
  - b. If the family experiences a change in circumstance during the 180 days, the family must notify the PHA of the changed circumstances and request an interim reexamination before the expiration of the 180 days.
  - c. Families whose assistance is terminated under this instance will have to reapply for assistance when PHA is accepting applications.

### **C. Mandatory Termination of Assistance**

The PHA must terminate program assistance of the family for any of the following reasons:

1. If the family was evicted from housing assisted under the HCV program for a serious violation of the lease.

Serious violations (includes but is not limited to failure to pay rent or other amounts due under the lease, disturbance of neighbors, destruction of property, living or housekeeping

habits that cause damage to the unit), or repeated violation of the terms and conditions of the lease.

2. If any member of the family fails or refuses to sign and submit consent forms (i.e., declaration of citizenship, form HUD-9886 Authorization for the Release of Information/Privacy Act Notice and other consent forms) for obtaining information.
3. If the family fails to submit required evidence of citizenship or eligible immigration status.
4. If any member of the household required to disclose their SSN does not disclose their SSN and provide the required documentation.

If the family is otherwise eligible, the PHA may defer the family's termination and provide the family an opportunity to comply with the SSN requirements within a period not to exceed 90 calendar days from the date the PHA determined the family noncompliant for the SSN disclosure and documentation requirement, only if the PHA determines:

- a. 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
  - b. 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.
5. If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education.
  6. Death of the sole member of the family.
  7. If any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
  8. Any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

#### **D. PHA Authority to Terminate Assistance**

The PHA has the authority and may at any time terminate HCV program assistance of a family for any of the following reasons:

1. If the family violates any obligations of family under the HCV program:
  - a. The family failed to supply any information that the PHA or HUD determined necessary in the administration of the program.
  - b. The family failed to supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
  - c. If the participant provides information that is not true or complete.

- d. If the family did not report an interim change in family composition or income, etc., which they were required to report, the PHA would determine how much the family owed the PHA, due to the unreported or untimely reported information.
- e. The family fails to allow the PHA to inspect the unit at reasonable times and after reasonable notice.
- f. The family may not commit any serious or repeated violation of the lease.

An incident or incidents of actual or threatened VAWA crimes will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the VAWA crime or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

- g. The family failed to notify the PHA and the owner before the family moved out of the unit or terminated the lease on notice to the owner.

Except if the family moved out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of a VAWA crime and who reasonably believed to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), and has otherwise complied with all other obligations under the HCV program.

- h. The family failed to promptly give the PHA a copy of any owner eviction notice.

- 2. If any member of the family has been evicted from federally assisted housing in the last five (5) years.
- 3. If a PHA has ever terminated assistance under the HCV program for any member of the family.
- 4. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- 5. If the family 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.
- 6. If 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.
- 7. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.
  - a. The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA.
  - b. The PHA may prescribe the terms of the agreement.
- 8. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.

9. If the family has been engaged in criminal activity or alcohol abuse.
10. If the family signs an agreement with an owner/landlord to pay for the owner/landlord to repair tenant caused HQS fail items, and the family fails to repay the owner/landlord pursuant to said agreement, assistance may be terminated.
11. If a household member is fleeing to avoid prosecution, or custody or confinement after prosecution for a crime that is a felony under the law of the place from which the individual flees;
12. If a family member has violated or is violating a condition of probation or parole imposed under federal or State law.

#### **E. Termination of Assistance for Criminals and Alcohol Abusers**

1. The PHA has established the following standards to be applied as appropriate, for drug-related criminal activity, violent criminal activity, and alcohol abuse concerning termination of assistance:
  - a. The PHA has determined a "pattern" as at least two (2) drug or alcohol related criminal offenses within the three (3) year period while the family is participating in the HCV program.

A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
  - b. Evidence of criminal activity shall be defined as a preponderance of evidence for criminal activity.
  - c. Currently engaging in illegal use of a drug shall be defined as within 90 days from the date the PHA discovered the use of the illegal drug.
  - d. Reasonable cause shall be determined by a preponderance of evidence of illegal use of a drug charge or other criminal activity.
  - e. The PHA may determine the use of an illegal drug through preponderance of evidence of a drug-related charge.
  - f. The PHA shall determine involvement in criminal activity through the preponderance of evidence for a criminal activity.
  - g. There is no time period concerning the preponderance of evidence of a drug-related charge for manufacturing, production, or distribution of methamphetamine on or off the premises of federally assisted housing. Such household member(s) being convicted of this offense will always be denied admission.
2. As a measure to determine whether if any member of the household has violated the obligations of the family under the HCV program for drug-related criminal activity, violent criminal activity, or other criminal activity, the PHA has established the following standards:

Drug-related criminal activity, criminal activity, and alcohol abuse include such activity engaged in on or near the premises by any member of the family, guest, or by any other person in the family's control.

- a. Any household member is currently engaged in any illegal use of a drug.

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

- b. Any family member has violated the family's obligation not to engage in any drug-related criminal activity.

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

- c. Any household member has violated the family's obligation not to engage in violent criminal activity.

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

- d. Any household member is engaged in the abuse or pattern of abuse of alcohol to the extent that the abuse interferes and/or threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Abuse of alcohol includes behavior or a pattern of behavior of any family member and/or guest that as a result of the abuse of alcohol interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents.

3. A perpetrator of domestic violence, dating violence, sexual assault or stalking.

## **F. Termination of HAP Contract Due to Insufficient Funding**

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

Termination of HAP contracts due to insufficient funding will only be implemented as a last resort and will be compliant with Equal Opportunity and civil rights requirements.

1. Determination of Insufficient Funding

The PHA will use the following criteria to determine adequacy of funding:

- a. If the PHA has adequate funds to service the existing vouchers under HAP contract through the end of the calendar year, funds will be determined to be sufficient and the PHA will not terminate contracts or vouchers due to insufficient funding.
- b. If the PHA has inadequate funds to service the existing vouchers under HAP contract through the end of the calendar year, funds will be determined to be insufficient and the PHA may begin procedures to terminate HAP contracts, stop issuing vouchers, or



rescind recently issued vouchers due to insufficient funding.

- c. In determining if funding under the Consolidated Annual Contributions Contract (CACC) is insufficient to support continued assistance for families in the program, the PHA will take into consideration its available budget authority (which includes unspent prior year HAP funds in the PHA's Unrestricted Net Position (UNP)).
- d. The PHA will conduct an analysis of funds vs. expenditures using HUD approved methods to determine if funds are insufficient to support the current vouchers under HAP contract through the end of the calendar year.
- e. The PHA will notify the HUD field office and its financial analyst at the Financial Management Center (FMC) prior to termination actions due to insufficient funding.

## 2. Alternative Measures

Before terminating HAP contracts on the basis of insufficient funding, the PHA must ensure that it has carefully considered all cost-savings measures and the impact such terminations will likely have on HCV program applicants and participants. These may include:

- a. Utilizing alternative sources of unrestricted non-federal funding that may be available.
- b. Use of HUD approved outside source of funds
- c. Reviewing and revising rent reasonableness if necessary.
- d. Ensuring accurate utility allowances.
- e. Implementing interim reexaminations for income increases.
- f. Implementing minimum rents.
- g. Lowering payment standards.
- h. Requesting receiving PHAs to absorb portability vouchers that are currently being billed.

## 3. Owner Notification

- a. The PHA will notify the owner by certified mail, giving as much notice as possible but no less than 30 days prior to the effective date of the termination. Failure to accept certified mail does not constitute failure of the PHA to notify the owner.
- b. The notice of termination will include, at a minimum:
  - 1) The reason for the HAP contract termination.
  - 2) Regulatory and Administrative Plan citations regarding authority to terminate for insufficient funding.
  - 3) Effective date of termination.
  - 4) Rights and responsibilities of the owner.
  - 5) PHA contact person.

#### 4. Family Notification

- a. The PHA will notify the family by certified mail, giving as much notice as possible but no less than 30 days prior to the effective date of the termination. Notice to a family under the protection of a court order, Fair Housing Voluntary Compliance Agreement, or the Violence Against Women Act will be delivered a minimum of 60 days prior to the effective date of the termination. Failure to accept certified mail does not constitute failure of the PHA to notify the family.
- b. The notice of termination will include, at a minimum:
  - 1) The reason for the voucher termination.
  - 2) Regulatory and Administrative Plan citations regarding authority to terminate for insufficient funding.
  - 3) Effective date of termination.
  - 4) Rights and responsibilities of the family (keep contact info current, etc.).
  - 5) Special assistance available from the PHA.
  - 6) PHA contact person.
  - 7) Information on resuming assistance.
  - 8) Options that may be open to the family (public housing assistance, comparable tenant-based assistance, etc.).

#### 5. Order of Termination and Resuming Assistance

The PHA will work with the HUD Shortfall Prevention Team to determine the order of termination of HCV assistance, including the Project-Based Voucher program and special purpose vouchers.

### **G. Termination of the Tenancy by the Family**

The family may terminate tenancy after the initial lease term. The family may terminate the tenancy during the initial term if the owner agrees to release the family from the lease.

#### 1. Family termination notice requirements

- a. The family must give the notice to vacate to the owner as required by the lease.
- b. The family must give the PHA copy of the notice to vacate given to owner at the same time.
- c. The family must give the notice to vacate to the owner and PHA prior to moving out of the unit.
  - 1) Except for victims of a VAWA crime and the move is needed to protect the health or safety of the family or family member, or
  - 2) If any member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

## 2. Continued Assistance

- a. The family must notify the PHA whether the family needs continued assistance in another unit.
- b. If family is eligible for continued assistance, the PHA will schedule a reexamination appointment and issue the family another voucher to lease-up in another unit.

## H. Termination by Owner

The owner must limit termination to those allowed by the lease and HUD requirements in the HUD-required tenancy addendum.

1. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:
  - a. Serious or repeated violation of the lease;
  - b. Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
  - c. Criminal activity or alcohol abuse; or
  - d. Other good cause.
2. Other good cause for termination of tenancy
  - a. During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.
  - b. During the initial lease term or during any extension term, other good cause may include:
    - 1) Disturbance of neighbors,
    - 2) Destruction of property, or
    - 3) Living or housekeeping habits that cause damage to the unit or premises.
  - c. After the initial lease term, such good cause may include:
    - 1) The tenant's failure to accept the owner's offer of a new lease or revision;
    - 2) The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or
    - 3) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).
    - 4) The examples of other good cause do not preempt any State or local laws to the contrary.

3. Criminal activity or alcohol abuse.

- a. The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:
  - 1) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
  - 2) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
  - 3) Any violent criminal activity on or near the premises; or
  - 4) Any drug-related criminal activity on or near the premises.
- b. The owner may terminate the tenancy during the term of the lease if any member of the household is:
  - 1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or
  - 2) Violating a condition of probation or parole under federal or State law.
- c. The owner may terminate the tenancy for criminal activity by a household member if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.
- d. The owner may terminate the tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

4. The family is not responsible for payment of the portion of the rent to owner covered by HAP payment under the HAP contract between the owner and the PHA.

- a. During the term of the lease, the owner may not terminate the tenancy of the family for nonpayment, including late payment, of the HAP payment by the PHA.
- b. The PHA failure to pay the HAP payment, including late payment, to the owner is not a violation of the lease between the family and the owner.

5. Owner Notification Requirements

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.

- a. The owner may only evict the family from the unit by instituting a court action.

- b. Owner notice of grounds
  - 1) To terminate tenancy the owner must give the family written notice of the owner's intent to terminate the tenancy and the reasons for the termination.
  - 2) The tenancy does not terminate before such notice is given.
  - 3) The notice must be given to the family at or before commencement of any eviction action.
  - 4) The notice of grounds may be included in or combined with any owner eviction notice to the family.
  - 5) The owner must give the PHA a copy of any owner eviction notice at the same time the owner notifies the family.
- c. The PHA will continue to make HAP payments to the owner as long as the family remains a program participant and remains in the unit, even if the owner has started the eviction process.
- d. The PHA will continue to pay the HAP payment to the owner until the family moves or the court judgment allows the owner to evict.

#### **I. Consideration of Circumstances before Termination of Assistance**

The PHA and owner may consider all specific circumstances of each family in determining whether to terminate assistance or evict the family, respectfully, because of family's action or failure to act by members of the family.

- 1. Circumstances the PHA and owner may consider include but are not limited to:
  - a. The seriousness of the case or offending action.
  - b. The extent of participation or culpability of individual family members.
    - 1) The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.
    - 2) The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.
  - c. Mitigating circumstance related to the disability of a family member.
  - d. The extent to which the family (leaseholder) has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
  - e. If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation.

- f. The effects of termination of assistance on other family members who were not involved in the action or failure to act.
  - g. The effect on the community of termination or the failure of the owner to take such action.
  - h. In determining whether to terminate assistance or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA or owner may consider whether such household member:
    - 1) Is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
    - 2) The PHA or owner may require the family to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
  - i. The likelihood of reoccurrence.
  - j. Age at the time of the criminal activity.
  - k. Length of time since conviction.
  - l. The effect the owner's action on the integrity of the HCV program.
2. Nondiscrimination limitation and protection for victims of a VAWA crime. The PHA's termination actions and the owner's termination of tenancy actions must be consistent with Fair Housing and Equal Opportunity provisions and protections for victims of VAWA crimes.
3. Limitations of VAWA protections:
- a. Nothing in this section limits any available authority of the PHA to terminate assistance to a tenant for any violation not premised on an act of a VAWA crime that is in question against the tenant or an affiliated individual of the tenant.
  - b. The PHA must not subject the tenant, who is or has been a victim of a VAWA crime or is affiliated with an individual who is or has been a victim of a VAWA crime to a more demanding standard than other tenants in determining whether to terminate assistance.
  - c. If the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the PHA would be present if that tenant or lawful occupant is not terminated from assistance.
  - d. Words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the standards provided in the definition of "actual and imminent threat".
  - e. Any termination of assistance, should be utilized by the PHA only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the

property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat.

- f. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents.

## **CHAPTER 31: INFORMAL REVIEWS AND INFORMAL HEARINGS**

The purpose of the informal review or informal hearing is to resolve applicant or participant disputes with the PHA without legal action for PHA decisions affecting eligibility or amount of assistance and to correct PHA errors that might have occurred in the PHA's decision making process.

### **A. Difference between the Informal Review or Informal Hearing**

1. Informal Review: Is for program applicants.
2. Informal Hearing:
  - a. Is for program participants.
  - b. The PHA must give the opportunity for an informal hearing before the PHA terminates HAP payments for the family under an outstanding HAP contract.

### **B. When an Informal Review is Not Required**

The PHA is not required to provide the applicant an opportunity for an informal review for any of the following:

1. Discretionary administrative determinations by the PHA.
2. General policy issues or class grievances.
3. A determination of the family unit size under the PHA subsidy standards.
4. A PHA determination not to approve an extension of the voucher term.
5. A PHA determination not to grant approval of the tenancy.
6. A PHA determination that a unit selected by the applicant is not in compliance with HQS.
7. A PHA determination that the unit is not in accordance with HQS because of the family size or composition.

### **C. When an Informal Hearing is Not Required**

The PHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

1. Discretionary administrative determinations by the PHA.
2. General policy issues or class grievances.
3. Establishment of the PHA schedule of utility allowances for families in the program.
4. A PHA determination not to approve an extension of the voucher term.
5. A PHA determination not to approve a unit or tenancy.
6. A PHA determination that an assisted unit is not in compliance with HQS. (However, the PHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family).



7. A PHA determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the PHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

#### **D. When an Informal Hearing is Required**

The PHA must give a participant family an opportunity for an informal hearing to consider whether the following PHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHA policies:

1. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule.
3. A determination of the family unit size under the PHA subsidy standards.
4. A determination to terminate assistance for a participant family because of the family's action or failure to act under the 24 CFR §982.552.
5. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.

#### **E. Informal Hearing Determination of Ineligible Immigration Status**

When the PHA makes a determination of ineligible immigration status, the PHA must offer applicants, as well as HCV participating families, the opportunity to request an informal hearing.

1. After notification of the CIS decision on appeal, or in lieu of request of appeal to the CIS, the family may request the PHA provide an informal hearing. This request must be made:
  - a. Within 30 days of receipt of the notice of denial or termination of assistance, or
  - b. Within 30 of receipt of the CIS appeal decision
2. Assistance to the family may not be delayed, denied, reduced, or terminated on the basis of ineligible immigration status of a family member if:
  - a. The primary and secondary verification of any immigration documents that were timely submitted has not been completed;
  - b. The family member for whom required evidence has not been submitted has moved from the assisted unit;
  - c. The family member who is determined not to be in an eligible immigration status following CIS verification has moved from the assisted unit;
  - d. The CIS appeals process has not been concluded;

- e. Assistance is being prorated;
  - f. Assistance for a mixed family is continued in accordance with §§5.516 and 5.518; or
  - g. Deferral of termination of assistance is granted in accordance with §§5.516 and 5.518.
3. The informal hearing procedures shall follow the normal informal hearing procedures and include the following:
- a. The family shall be provided the opportunity to controvert evidence relied upon by the PHA and to confront and cross-examine all witnesses on whose testimony or information the responsible entity relies.
  - b. The family shall be entitled to arrange for an interpreter to attend the informal hearing, at the expense of the family, or PHA, as may be agreed upon by the two parties to the proceeding.
  - c. The family shall be entitled to have the informal hearing recorded by audiotape (a transcript of the informal hearing may, but is not required to, be provided by the PHA).
4. The PHA will keep the following documents for a minimum of five (5) years that may have been submitted by the family, or provided to the PHA as part of the CIS appeal or the informal hearing process:
- a. The application for housing assistance;
  - b. The form completed by the family for income reexamination;
  - c. Photocopies of any original documents (front and back), including original CIS documents;
  - d. The signed verification consent form;
  - e. The CIS verification results;
  - f. The request for a CIS appeal;
  - g. The final CIS determination;
  - h. The request for an informal hearing; and
  - i. The final informal hearing decision.
5. A decision against a family member does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

## **F. Notification to the Family**

If the PHA decision has affected a family's eligibility for housing assistance or amount of assistance, the PHA must notify the family that the family may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination, the family may request an informal review or informal hearing on the decision.

## 1. The Notice of the PHA's Decision

- a. When the PHA has made its decision, the PHA shall give the family a written notice within 10 calendar days of the decision.
- b. The Notice will contain the following information:
  - 1) A brief statement of the reason for the decision.
  - 2) A statement that if the family does not agree with the decision, the family may submit a written request for an informal review or informal hearing within 10 calendar days from receipt of the notice.
  - 3) The VAWA Notice of Occupancy Rights (form HUD-5380).
  - 4) The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (form HUD-8382).
- c. The PHA will accept the written request for an informal review or informal hearing by:
  - 1) In person delivery to the PHA
  - 2) Email
  - 3) Fax
  - 4) U.S. Post (must be postmarked within the allotted timeframe)

## 2. Scheduling the Informal Review or Informal Hearing

The PHA may or may not conduct an informal review or informal hearing if the family fails to submit the request within the time stipulated. If the request is not submitted timely, it shall mean that the family has waived their right to request an informal review or informal hearing.

- a. Expeditious Hearing Process:
  - 1) Where an informal review or informal hearing is required, the PHA will proceed with the informal review or informal hearing in an expeditious manner upon request by the family.
  - 2) The PHA will schedule the informal review or the informal hearing within 10 calendar days of the request by the family.
- b. Location of the Informal Review or Informal Hearing

The informal review or informal hearing will be conducted at a location that is appropriately set-up, confidential and will accommodate any request for reasonable accommodation. The informal review or informal hearing may be conducted:

  - 1) At the PHA office.
  - 2) At a location designated by the PHA.
  - 3) At a location connected by electronic audio/visual media or telephone conference call agreed upon by the two parties.

- c. Time of the Informal Review or Informal Hearing
  - 1) The PHA should schedule the informal review or informal hearing with enough time to thoroughly conduct the proceedings.
  - 2) No Show Policy of the Informal Review or Informal Hearing
    - a) If the family is not present (without good cause) at the informal review or informal hearing 10 minutes past the scheduled time, the PHA shall consider it a no show and the request for the informal review or informal hearing will be denied.
    - b) Good cause will be determined on a case-by-case basis.
    - c) If the family fails to appear at the informal review or informal hearing on the date scheduled without any request for an adjournment on strong grounds, the matter will be decided by the parties that are present or dismissed immediately with no right for its restoration. The hearing officer may or may not allow an application for adjournment.
- d. Representation:
  - 1) The family can either appear in person or may be represented by an attorney or any other person at the family's expense.
  - 2) The family shall be entitled to arrange for an interpreter to attend the informal review or informal hearing, at the expense of the family, or PHA, as may be agreed upon by the two parties to the proceeding.
  - 3) The PHA can be represented by an attorney or any other representative.
- e. Discovery:
  - 1) The family must be given the opportunity to review/examine any PHA documents which are directly relevant to the informal review or informal hearing prior to the informal review or informal hearing date.
  - 2) The discovery procedures also apply to the PHA.
  - 3) If either party does not make the documents available upon request, the party cannot rely on the documents during the informal review or informal hearing.

## **G. Hearing Officer**

The PHA will designate any person or persons as hearing officer or hearing officers to conduct the informal review or informal hearing. The power to designate a hearing officer shall rest solely with the PHA.

- 1. The hearing officer can be any person other than a person who made or approved the decision under review, or a subordinate of such person.
- 2. The hearing officer will regulate the conduct of the hearing in accordance with hearing procedures.

## **H. Procedures of the Informal Review or Informal Hearing**

The hearing officer will meet with the family and PHA at the appointed time of the informal review or informal hearing.

1. The hearing officer will advise both the family and PHA that the informal review or informal hearing will be recorded (e.g., by audiotape or transcript).
2. The hearing officer will review all the documents, policies, regulations, and other relevant information used to make the PHA decision.
3. Evidence:
  - a. The family and the PHA shall be given the opportunity to present evidence orally and written and may question any witnesses.
    - 1) The family will begin their case by introducing documents it relies on and by taking oral testimony of witnesses in support of their contention.
    - 2) The PHA will then begin its defense by introducing documents it relied on and by taking oral statements from witnesses, if necessary, in justification of its decision.
    - 3) The hearing officer will have the opportunity to ask questions to both the family and the PHA.
  - b. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
4. The family and the PHA will close their cases and make final submissions, if they choose to, prior to the decision.
5. The hearing officer will advise the family and the PHA that all information presented, either orally or in documentation, will be considered in making a final decision, and a notice of that decision will be provided to the family and PHA in writing within 10 calendar days.

## **I. Issuance of the Decision**

The decision of the hearing officer shall be in writing and based on the facts established, HUD regulations, PHA policy, and the applicable law.

1. Factual determinations relating to the individual circumstances of the family shall be based on the preponderance of the evidence presented during the informal review or informal hearing.
2. The decision shall clearly state the reason on which the decision is arrived.
3. This final decision shall be given within 10 calendar days from the date of the informal review or informal hearing.
4. A copy of the decision shall be furnished promptly to the family and the PHA.

5. The PHA will not be bound by an informal hearing decision:
  - a. Concerning a matter for which the PHA is not required to provide an opportunity for an informal hearing or that otherwise exceeds the authority of the hearing officer.
  - b. Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.
  - c. If the PHA determines that it is not bound by the hearing decision, the PHA will promptly notify the family of the determination and the reasons for the determination.

## **CHAPTER 32: RECORDS MANAGEMENT**

### **A. EIV Printouts**

The PHA is authorized to maintain the EIV Income and other reports in the tenant file for the duration of tenancy and no longer than three (3) years from the end of participation (EOP) date.

1. The PHA will maintain at a minimum, the last three (3) years of the form HUD-50058 and supporting documentation for all regular and interim reexaminations of family income.
2. The PHA will maintain all records for a period of at least three (3) years from the effective date of the action.

### **B. Authority to Obtain Criminal Records**

HUD authorizes the PHA to obtain criminal conviction records from a law enforcement agency and use the criminal conviction records obtained from the law enforcement agency to screen applicants for admission to or terminate families from the HCV program.

### **C. Receipt of Information from Law Enforcement Agencies**

When the law enforcement agency receives the PHA's request, the agency must promptly release to the PHA a certified copy of criminal conviction records concerning the household member they have in their possession or under their control.

National Crime Information Center (NCIC) records must be provided in accordance with NCIC procedures.

The law enforcement agency may charge a reasonable fee for this service, but any fee charged by the agency for this service may not be passed on to the applicant.

### **D. Criminal Records**

Consistent with limitations on the use of criminal records, the PHA will ensure that criminal records, including sex offender registration information, received from a law enforcement agency, State, or local agency are:

1. Maintained confidentially;
  - a. Housed in a locked file with access restricted to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information.
  - b. The PHA must not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file.
2. Not misused or improperly disseminated; and

3. Destroyed once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation.
  - a. For denial of admission
    - 1) If the PHA admits an applicant family to the HCV program, the PHA will destroy, by shredding, the criminal records no later than 10 days after admission to the program.
    - 2) If the family is denied admission to the HCV program based on the criminal record, the PHA will retain the criminal record during the period allowed for requesting an informal review and if requested, until the informal review has been completed.
    - 3) The PHA will destroy, by shredding, the criminal record no later than 10 days after the period allowed to request an informal review has expired or no later than five (5) days after receiving the informal review decision.
  - b. For termination of assistance
    - 1) If the PHA proposes termination of the family assistance from the HCV program based on the criminal record, the PHA will retain the criminal record during the period allowed for requesting an informal hearing and if requested, until the informal hearing has been completed.
    - 2) The PHA will destroy, by shredding, the criminal record no later than 10 days after the period allowed to request an informal hearing has expired or no later than five (5) days after receiving the informal hearing decision.
  - c. If the family files a civil lawsuit for the denial of admission, termination of assistance, negligence, or breach of the PHA's disclosure of the criminal record, the PHA will destroy the criminal records no later than five (5) days after the statute of limitations has passed or the disposition of the civil lawsuit.
4. Sex offender registration criminal information
  - a. The PHA will not disclose to owner any sex offender registration information obtained by the PHA.
  - b. The PHA will retain a record of the type of screening and the date the screening was performed for all sex offender registration criminal records.
  - c. The records management requirements do not apply to sex offender registration information that is public information or is obtained by the PHA other than from a State or local agency responsible for the collection or maintenance of such information.

## **E. Permitted Use and Disclosure of Criminal Records**

Permitted use and disclosure of criminal records received by the PHA may only be used for applicant screening and/or for lease enforcement and termination.



## 1. Disclosure of criminal records

### a. The PHA may disclose the criminal conviction which the PHA received from a law enforcement agency only as follows:

- 1) To officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information.

For example, if the PHA is seeking to terminate assistance to a HCV program participant on the basis of criminal activity/sex offender status as shown in criminal conviction records, the records may be disclosed to PHA employees performing functions related to the termination, or to the PHA hearing officer conducting an administrative grievance hearing concerning the proposed termination.

- 2) To the owner for use in connection with judicial eviction proceedings by the owner to the extent necessary in connection with a judicial eviction proceeding.

For example, criminal conviction records may be included in pleadings or other papers filed in an eviction action, may be disclosed to parties to the action or the court, and may be filed in court or offered as evidence.

### b. Disclosure of records may be only made if the following conditions are satisfied:

- 1) If the PHA has determined that criminal activity by the household member as shown by such records received from a law enforcement agency may be a basis for eviction from the Section 8 unit; and
- 2) If the owner certifies in writing that it will use the criminal conviction records only for the purpose and only to the extent necessary to seek eviction in a judicial proceeding of a Section 8 tenant based on the criminal activity by the household member that is described in the criminal conviction records.
- 3) The PHA may rely on an owner's certification that the criminal record is necessary to proceed with a judicial eviction to evict the tenant based on criminal activity of the identified household member, as shown in the criminal conviction record.
- 4) Upon disclosure as necessary in connection with judicial eviction proceedings, the PHA is not responsible for controlling access to or knowledge of such records after such disclosure.

## 2. Penalties for improper release of information

### a. Criminal Penalty

Conviction for a misdemeanor and imposition of a penalty of not more than \$5,000 is the potential for:

- 1) Any person, including an officer, employee, or authorized representative of the PHA, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of the PHA under false pretenses; or

- 2) Any person, including an officer, employee, or authorized representative of the PHA, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

b. Civil Liability

The PHA may be held liable to any applicant for, or tenant of, the PHA who is affected by either of the following:

- 1) A negligent or knowing disclosure of criminal records information obtained under statutory authority about such person by an officer, employee, or authorized representative of the PHA if the disclosure is not authorized by this section; or
- 2) An applicant for, or tenant of, of the PHA may seek relief against a PHA for inappropriate disclosure by bringing a civil action for damages and such other relief as may be appropriate against the PHA.
  - a) The United States district court in which the affected applicant or tenant resides, in which the unauthorized action occurred, or in which the officer, employee, or representative of the PHA alleged to be responsible resides, has jurisdiction.
  - b) Appropriate relief may include reasonable attorney's fees and other litigation costs.

## F. Use of Criminal Records

If the PHA proposes to deny admission or terminate assistance for criminal activity as shown in the criminal record obtained from a law enforcement agency, the PHA must:

1. Denial of Admission
  - a. Provide the subject of the record and the applicant with a copy of the criminal record.
  - b. Give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process.
2. Termination of Assistance
  - a. Notify the household of the proposed action to be based on the information, and
  - b. Provide the subject of the record and the tenant with a copy of the criminal record.
  - c. Give the family an opportunity to dispute the accuracy and relevance of that record in the informal hearing process.
3. All information about a victim of a VAWA crime that is provided to the PHA and utilized for the purpose of terminating the assistance of the perpetrator or a household who has a member of the household who is a perpetrator of a VAWA crime shall be maintained confidential pursuant to the Violence Against Women Act.

Note: The opportunity for an informal review or informal hearing must be provided before a denial of admission or termination of assistance on the basis of such information.

## CHAPTER 33: USE OF ADMINISTRATIVE FEE RESERVE

This chapter provides guidance to the PHA on the use of the administrative fee reserves.

### A. Background

The PHA will maintain a single administrative fee reserve account for the HCV program.

1. Consistent with Governmental Accounting Standards Board (GASB) guidance reserve accounts formerly identified by HUD as Unrestricted Net Assets (UNA) and Net Restricted Assets (NRA) are now identified as Unrestricted Net Position (UNP) and Restricted Net Position (RNP), respectfully.
2. On an annual basis, the PHA will credit to the UNP the total of:
  - a. The difference between program administrative fees (paid by HUD for the PHA fiscal year) and PHA program administrative expenses for the fiscal year; **plus**
  - b. The net of revenue (admin fee payments and HAP reimbursements received from Initial PHAs) and expenses (HAP paid) related to the administration of unabsorbed portability units administered (Port-Ins); **plus**
  - c. Interest and other income earned on the investment of administrative fee reserves (and up to \$500 per calendar year in interest and investment income earned on HAP and RNP funds); **plus**
  - d. The portion of fraud recoveries actually collected that flows to the administrative fee reserves (usually 50% of total collected); **plus**
  - e. Any other miscellaneous administrative revenues or equity transfers to the HCV administrative fee reserve; **minus**
  - f. Any expenditures from the reserve account to cover excess HAP costs not covered by HAP funding and HAP reserves (RNP account) or other allowed uses of administrative reserves.

### B. Use of Administrative Fee Reserves

Beginning with the enactment of the 2004 Appropriations Act, the use of administrative fee reserves is restricted to activities related to the provision of Section 8 tenant-based assistance, including related development activities.

1. Administrative fee reserves from Federal Fiscal Year (FFY) 2004 and subsequent funding periods (referred to as "post-2003" funds) are restricted to HCV activities even though under GAAP they are referred to as unrestricted net position accounts.
2. Administrative fee reserves remaining from funding periods prior to the FFY 2004 Appropriations Act (referred to as "pre-2004" funds) are restricted in use.

### C. Use of Administrative Fees

The HCV program regulations at 24 CFR 982.152 provide that PHA administrative fees may only be used to cover costs incurred to perform PHA administrative responsibilities for the program in accordance with HUD regulations and requirements.

1. During the PHA's current fiscal year, any administrative fees received in the PHA's fiscal year may only be used for this purpose.
2. If a surplus of administrative fees remains at the end of the PHA's fiscal year, the amount by which the program administrative fees paid by HUD for the PHA fiscal year exceeded the PHA's HCV administrative expenses for the fiscal year is added to the administrative fee reserves.

**Note:** If the PHA lacks administrative fee reserves and needs to temporarily supplement the administrative fee provided by HUD with non-federal, non-restricted funds in order to cover eligible HCV program administrative expenses, the PHA may use subsequent administrative fees to reimburse the source of the non-federal, non-restricted funding used as the temporary bridge to cover the HCV program administrative expenses.

However, HCV administrative fees may never be loaned to another program in order to cover that program's expenses, regardless of whether the PHA intends to reimburse the HCV program at a later date.

### D. Use of Pre-2004 Administrative Fee Reserves

Any administrative fees funded prior to the FFY 2004 Appropriations Act remain subject to the regulatory requirements at 24 CFR 982.155(b)(1).

1. The PHA must use funds in the administrative fee reserve to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses (to the end of the last expiring funding increment under the consolidated ACC), the PHA may use these funds for other housing purposes permitted by State and local law. However, HUD may prohibit use of the funds for certain purposes.
2. Due to the restrictions imposed by the FFY 2004 and subsequent appropriations, the use of administrative fee reserves for "other housing purposes permitted by State and local law" only applies to pre-2004 administrative fee reserves.

### E. Use of Post-2003 Administrative Fee Reserves

The FFY 2004 Appropriations Act and subsequent appropriations require that administrative fee reserves provided from these appropriations shall only be used for activities related to the HCV program, including related development activities. Examples of related development activities could include modifications to HCV units to provide accessibility features or PBV development costs.

1. Any post-2003 administrative fees moved into the administrative fee reserve account at year end may not be used for "other housing purposes permitted by State and local law."

2. If the PHA has not adequately administered the HCV program according to HUD requirements, HUD may prohibit use of funds in the administrative fee reserve and may direct the PHA to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses.
3. Post-2003 administrative fee reserves may not be used for Low Rent Public Housing (PH) development activities, PH maintenance, or PH funding shortfalls, nor may they be loaned to other PHA programs.

#### **F. Use of HAP Funds**

HAP funding, which includes RNP accounts, may only be used within the HCV Program for eligible expenses related to HAP (PHA's share of the rent), Family Self-Sufficiency escrow payments, and utility reimbursements.

1. HAP shall not, under any circumstances, be used for any other purpose such as to cover administrative expenses or to be loaned, advanced or transferred (referred to as operating transfers due to/due from) to other component units or other programs (housing or non-housing) such as Low Rent Public Housing.
2. Use of HAP for any purpose other than eligible HAP needs is a violation of law, and such illegal uses or transfers will result in administrative fee sanctions and possible breach of the ACC.
3. In instances where the PHA is found to have misappropriated HAP funds by using the funds for any purpose other than valid HAP expenses for units up to the baseline, HUD will require the immediate return of the funds to the RNP account.
4. HUD may take action against the PHA or any party that has used HAP or RNP funds for non-HAP purposes.

#### **G. Board Approval for Administrative Fee Reserve Expenditures**

1. The Board of Commissioners (Board) shall establish a threshold for the amount of annual expenditures that may be made from the administrative fee reserve for other housing purposes without prior approval of the Board which shall only apply to pre-2004 administrative fee reserves.
2. For such pre-2004 administrative fee reserve expenditures that exceed the Board's threshold, the PHA Board, as part of its approval, must make an affirmative determination that the expenditures are necessary and reasonable for the other purposes consistent with State and local law.

## APPENDIX A: HUD VERIFICATION HIERARCHY AND TECHNIQUES

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

**GLOSSARY**

| <b>Acronyms Used in the HCV Program</b> |   |
|---|---|
| <b>Acronym</b>                          | <b>Definition</b>                         |
| ACC                                     | Annual Contributions Contract             |
| ADA                                     | The Americans with Disabilities Act       |
| BR                                      | Bedroom                                   |
| CFR                                     | Code of Federal Regulations               |
| CIS                                     | U.S. Citizenship and Immigration Services |
| CPI                                     | Consumer Price Index                      |
| CR                                      | Contract Rent                             |
| EBL                                     | Elevated Blood-Lead Level                 |
| EID                                     | Earned Income Disallowance                |
| EIV                                     | Enterprise Income Verification System     |
| FDIC                                    | Federal Deposit Insurance Corporation     |
| FHA                                     | Federal Housing Administration            |
| FHEO                                    | Fair Housing and Equal Opportunity        |
| FICA                                    | Federal Insurance Contributions Act       |
| FMR                                     | Fair Market Rent                          |
| FOIA                                    | Freedom of Information Act                |
| FSS                                     | Family Self-Sufficiency                   |
| FUP                                     | Family Unification Program                |
| FY                                      | Fiscal Year                               |
| FYE                                     | Fiscal Year End                           |

|       |  |
|-------|--|
| GAO   | Government Accounting Office                     |
| GR    | Gross Rent                                       |
| HA    | Housing Agency                                   |
| HAP   | Housing Assistance Payment                       |
| HCV   | Housing Choice Voucher Program                   |
| HHS   | U.S. Department of Health and Human Services     |
| HQS   | Housing Quality Standards                        |
| HOTMA | Housing Opportunities Through Modernization Act  |
| HUD   | U.S. Department of Housing and Urban Development |
| IMS   | Inventory Management System                      |
| IRS   | Internal Revenue Service                         |
| IVT   | Income Validation Tool                           |
| LBP   | Lead-Based Paint                                 |
| LEP   | Limited English Proficiency                      |
| MF    | Multifamily Housing Program                      |
| MSA   | Metropolitan Statistical Area                    |
| MTW   | Moving to Work                                   |
| NDNH  | National Directory of New Hires                  |
| NOFA  | Notice of Funding Availability                   |
| OIG   | HUD Office of the Inspector General              |
| OMB   | U.S. Office of Management and Budget             |
| PASS  | Plan to Achieve Self-Support                     |



|       |  |
|-------|--|
| PBV   | Project-Based Voucher                                  |
| PHA   | Public Housing Authority                               |
| PIC   | PIH Information Center                                 |
| PIH   | Public and Indian Housing                              |
| PMSA  | Primary Metropolitan Statistical Area                  |
| PS    | Payment Standard                                       |
| QC    | Quality Control  |
| QHWRA | Quality Housing and Work Responsibility Act            |
| RAD   | Rental Assistance Demonstration                        |
| REAC  | Real Estate Assessment Center                          |
| RFTA  | Request for Tenancy Approval                           |
| SAFMR | Small Area Fair Market Rent                            |
| SAVE  | Systematic Alien Verification for Entitlements Program |
| SEMAP | Section 8 Management Assessment Program                |
| SRO   | Single Room Occupancy                                  |
| SSA   | Social Security Administration                         |
| SWICA | State Wage Information Collection Agency               |
| TPS   | Temporary Protective Status                            |
| TPV   | Tenant Protection Vouchers                             |
| TTP   | Total Tenant Payment                                   |
| UA    | Utility Allowance                                      |
| UIV   | Upfront Income Verification                            |
| URP   | Utility Reimbursement Payment                          |

|      |  |
|------|--|
| VASH | Veterans Affairs Supportive Housing Program        |
| VAWA | Violence Against Women Reauthorization Act of 2013 |
| VCA  | Voluntary Compliance Agreement                     |
| VMS  | Voucher Management System                          |

## **DEFINITIONS**

### **Absorption**

In portability, the point at which the receiving PHA stops billing the initial PHA for assistance on behalf of a portability family and starts making assistance payments with funding under its consolidated ACC.

### **Accessible**

When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical disabilities. The phrase "accessible to and usable by" is synonymous with accessible.

When used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, altered or adapted, can be approached, entered, and used by individuals with physical disabilities.

A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR, Part 8, Section 8.32, is "accessible" within the meaning of this paragraph.

When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified individual with disabilities (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

### **Accessible Route**

A continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by 24 CFR, Part 8, Section 8.32.

An accessible route that serves only accessible units occupied by persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments.

### **Actual Income from Assets**

If the cash value of the family total net assets is \$5,000 or less, the asset income is the actual income to be derived from the assets.

### **Actual and Imminent Threat**

Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Adaptability**

The ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability.

For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed, but the alarms need not be installed until such time as the unit is made ready for occupancy by a hearing-impaired person.

**Adjusted Income**

Annual income less allowable HUD deductions and allowances:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- 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; 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. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

**Administrative Fee**

Is the 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.

**Administrative Plan**

The plan that describes PHA policies for administration of the HCV program.

**Admission**

The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in the tenant-based program.

**Adult**

A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any federal, State, or tribal law.

**Affiliated Individual**

A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

Any individual, tenant, or lawful occupant living in the household of that individual.

**Annual**

Occurring once a year.

**Annual Contributions Contract (ACC)**

A contract under the Housing Act of 1937, as amended, between HUD and the PHA, containing the terms and conditions under which the Department assists the PHA in providing decent, safe, and sanitary housing for low-income families.

The ACC must be in a form prescribed by HUD, under which HUD agrees to provide assistance in the development, modernization, and/or operation of a low-income housing development under the Act, and the PHA agrees to develop, modernize, and operate the development in compliance with all provisions of the ACC and the Act, and all HUD regulations and implementing requirements and procedures.

A written agreement between HUD and a PHA to provide annual contributions to the PHA to cover housing assistance payments and other expenses pursuant to the Act.

**Annual Income**

Annual income includes all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded by law, regulation or notice.
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant**

A family or individual that has applied for admission to the HCV program but is not yet a program participant.

**Assisted Units**

Include units occupied by voucher program participants, as well as units assisted under a federal, State, or local government program. Units may also be considered "assisted" due to rent control or housing conversion actions. The PHA must exclude "assisted" units from rent comparisons in determining rent reasonableness.

**Auxiliary Aids**

Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

For example, auxiliary aids for persons with impaired vision may include readers, Braille materials, audio recordings, and other similar services and devices.

Auxiliary aids for persons with impaired hearing may include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, note takers, written materials, and other similar services and devices.

**Basic Range**

The payment standards between 90% and 110% of the FMR.

**Biennial**

Occurring every two years.

**Bifurcate**

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Budget Authority**

An amount authorized and appropriated by the Congress for payment to PHAs under the HCV program. For each funding increment in the program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child**

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

**Childcare Expenses**

Amounts anticipated being paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to be gainfully employed, to actively seek employment or to further his or her education, and only to the extent such amounts are not reimbursed.

The amount deducted shall reflect reasonable charges for childcare, and in the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of income.

Reasonable childcare expenses, as defined by the PHA, shall not exceed the actual costs incurred.

**CIS**

U.S. Citizenship and Immigration Services, formerly the U.S. Immigration and Naturalization Service (INS).

**Citizen**

A citizen, by birth or natural, of the United States.

**Co-Head**

An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

**Codes**

Includes building codes, housing codes, health and safety codes, sanitation codes and any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy or use of a dwelling unit.

**Complaint Inspection**

Complaint inspections occur when the family, owner, or member of the public complains about the condition of an HCV housing unit.

**Computer Matching**

The agreement that describes the responsibilities and obligations of the parties participating in a computer match.

Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

**Common Space**

Space available for use by assisted families and other occupants of the unit.

**Congregate Housing**

Special housing type for elderly persons or persons with disabilities that meets the HQS for congregate housing.

**Consent Form**

Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and payments of retirement income), and return information for unearned income from the Internal Revenue Service.

The consent forms expire after a certain time and may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.

**Consolidated ACC**

HUD's annual Grant Funding Exhibits to the ACC, which together with the ACC, constitute the annual grant agreement for the PHA's public housing program.

**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 Housing Choice Voucher Program.

**Contract of Participation**

A contract in a form approved by HUD, entered into between a participating family and a PHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the PHA and all members of the family who elect to participate in the FSS program, and which plans are attached to the contract of participation as exhibits.

**Controlled Substance**

A drug or chemical whose manufacture, possession, or use is regulated by a government, such as illicitly used drugs or prescription medications that are designated by law.

**Cooperative Housing**

Special housing type: Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular unit, and to participate in management of the housing.

**Cooperative Member**

A family of which one or more members owns membership shares in a cooperative.

**Covered Person**

A tenant, any member of the tenant's household, a guest or another person under the tenant's control.

**Currently Engaging In**

With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, *currently engaging in* means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.



**Date of Admission**

The HCV program will recognize two separate dates of admission:

The date of voucher issuance: The endpoint of the 6-month period during which a family member under the age of 6 years who lacks an SSN may have been added to an applicant family.

The date of lease-up (the effective date of the HAP contract): The starting point for the 90-period allotted to a family to obtain and SSN for a newly added child under the age of 6 years.

**Dating Violence**

The term 'dating violence means violence committed by a person

- Who is or has been in a social relationship of a romantic or intimate nature with the victim, and;
- Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; the frequency of interaction between the persons involved in the relationship.

**Days**

- Calendar days: Means every day on the calendar, including weekends and holidays. For purposes of the Administrative Plan, "day" without the prefix "calendar" means, every day on the calendar.
- Consecutive days: Means days that follow without interruption or gaps.
- Business days: Means the hours of operations of the PHA, excluding weekends and holidays.

**Decent, Safe and Sanitary Housing**

This determination is made using HUD's HQS and/or equivalent State or local standards approved by HUD.

**Defective Paint Surface**

Paint on applicable surfaces that are cracking, scaling, chipping, peeling or loose (with reference to lead-based paint poisoning prevention).

**Dependent**

A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Disability Assistance Expenses**

Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled Family**

A family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

**Discriminatory Housing Practice**

The Fair Housing Act prohibits housing discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability.

**Displaced Family**

A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief.

**Domestic Violence**

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Domicile**

The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug**

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

**Drug Abuse Treatment Facility**

An entity: that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to illegal drug use; and that is either an identified unit within a general care facility, or an entity other than a general medical care facility.

**Drug-Related Criminal Activity**

Means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Drug-Trafficking**

The illegal selling, transporting, or importing of unlawful control substances.

**Earned Income**

Earned income means income or earnings included in annual income from wages; tips, salaries, other employee compensation, and self-employment. Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by a PHA on behalf of a participating family.

**Economic Self-Sufficiency Program**

Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly Family**

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. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person**

A person who is at least 62 years of age.

**Elevated Blood Lead Level**

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.

**Employer Identification Number (EIN)**

The nine-digit taxpayer identifying number of an individual, trust, estate, partnership, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provisions of prior law, or pursuant to Section 6109 of the Code. The Employer Identification Number has nine digits separated by a hyphen, as follows: 00-0000000.

**Enterprise Income Verification (EIV) System**

Is a web-based computer system that contains employment and income information of individuals who participate in HUD rental assistance programs.

**Eviction**

Means any action initiated by the owner/landlord to regain possession of a dwelling unit and use of the premises.

**Evidence of Citizenship of Eligible Immigration Status**

The documents that must be submitted to the PHA as evidence of citizenship or eligible immigration status.

**Exception Payment Standard**

The payment standard below 90% or above 110% of the FMR, with HUD's approval.

**Extremely Low-Income Families**

A "very low-income family" whose annual income does not exceed the higher of:

- The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in Puerto Rico or any other territory or possession of the United States); or
- 30% of the median income for the area, as determined by HUD, with adjustment for smaller and larger family, except that HUD may establish income ceilings higher or lower than 30% of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Facility**

All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

**Fair Housing Act**

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

**Fair Market Rent (FMR)**

The rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. This Fair Market Rent includes utilities (except telephone). Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the Federal Register in accordance with 24 CFR Part 888.

**Familial Status**

Familial status covers:

- Families with children under the age of 18,
- Pregnant persons

- Any person in the process of securing legal custody of a minor child (including adoptive or foster parents)
- Persons with written permission of the parent or legal guardian

Under the Fair Housing Act, a family may not be discriminated against because of familial status.

### **Family**

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

- A single person, who may an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from home because of placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a tenant family.

### **Family Rent to Owner**

Is the port of the rent to owner paid by the family.

### **Family Self-Sufficiency (FSS)**

The program established by a PHA to promote self-sufficiency among participating families, including the coordination of supportive services to these families.

### **Family Share**

The portion of the rent to owner and the utilities allowance paid by the family.

### **Family Unit Size**

The appropriate number of bedrooms for a family as determined by the PHA under the PHA subsidy standards.

### **Fixed Source of Income**

A family member with a fixed source of income is a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources:

- Social Security, Supplemental Security Income (SSI), Supplemental Disability Insurance;
- Federal, State, local, or private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or

- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest

**FSS Account**

FSS account means the FSS escrow account authorized by Section 23 of the 1937 Act.

**FSS Credit**

FSS credit means the amount credited by the PHA to the participating family's FSS account.

**FSS Family**

FSS family or participating family means a family that receives assistance under the HCV program, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

**FSS Related Service Program**

Means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in 24 CFR 984.103.

**FSS Slots**

FSS slots refer to the total number of vouchers that comprise the minimum size of a PHA's Section 8 FSS program.

**Full-Time Student**

A person attending school or vocational training on a full-time basis based on the standards of the institution.

**Gender Identity**

Means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity.

Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

**Gross Rent**

The entire housing cost and is calculated by adding the rent to owner and the utility allowance for the unit. If all the utilities are included in the rent, the rent to owner and the gross rent will be the same.

**Group Home**

Special housing type: 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).

**Guest**

A person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

**Head of Household**

The adult member of the family, 18 years old or older, and who is the head of the household for purposes of determining income eligibility and rent.

**Higher Cost Area**

As related to portability, 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).

**Higher Cost Unit**

As related to portability, is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit.

**Homelessness**

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) revised the definition of homeless for HUD's homeless assistance programs. While the HUD regulations maintain four categories for defining people who are homeless, the PIH definition for IMS-PIC reporting (Form 50058) is narrowed to the following two categories:

Category 1: An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; **or**
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); **or**
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

Category 4: Any individual or family who:

- Is **fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking**, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; **and**

- Has no other residence; **and**
- Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

**Homeownership Assistance**

Assistance for a family under the homeownership option. There are two alternative and mutually exclusive forms of homeownership assistance by a PHA for a family: monthly homeownership assistance payments, or a single down payment assistance grant. Either form of homeownership assistance may be paid to the family, or to a mortgage lender on behalf of the family.

**Homeownership expenses**

In the homeownership option: A family's allowable monthly expenses for the home, as determined by the PHA.

**Home-visit (telephone interview)**

When applicants/participants are unable to physically come into the PHA's office due age or medical condition, a home-visit (telephone interview) can be done to gather the needed to either complete an application for housing or for annual reexamination.

Verifications needing signatures can be either mailed to the individual or other arrangements can be made at PHA's discretion.

**Household**

Includes everyone who lives in the unit. Household members are used to determine the unit size.

**Housing Assistance Payment**

The monthly assistance payment by a PHA and is calculated as the lower of: the payment standard for the family minus the TTP or the gross rent minus the TTP, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing Assistance Payments Contract**

A written contract between the PHA and an owner in the form prescribed by HUD headquarters, for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Housing Quality Standards**

The HUD minimum quality standards for housing assisted under the HCV program.

**Housing Choice Voucher Program**

Is the federal government's major program for assisting very low-income families, the elderly and persons with disabilities.

The statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher Program and makes other amendments to other provisions of the interim rule published on May 14, 1999.



**HUD**

U.S. Department of Housing and Urban Development.

**HUD Local Office**

Any HUD Office that has been delegated authority under the U.S. Housing Act of 1937 to perform functions pertaining to the area in which the PHA is located.

**Imputed Income from Asset**

Imputed income from assets is calculated by multiplying the total cash value of all family assets by the average passbook savings rate as determined by the PHA.

**Imputed Welfare Income**

An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income Limits**

HUD sets income limits that determine eligibility for assisted housing programs including the Public Housing, Section 8 project-based, Section 8 Housing Choice Voucher, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities programs. HUD develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each metropolitan area, parts of some metropolitan areas, and each non-metropolitan county.

**Individual Training Services Plan**

Means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the PHA in consultation with the family member, and which sets forth:

- The supportive services to be provided to the family member;
- The activities to be completed by that family member; and
- The agreed upon completion dates for the services and activities. Each individual training and services plan must be signed by the PHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

**Initial Rent to Owner**

The contract rent at the beginning of the initial lease term.

**Initial PHA**

In portability, the term refers to both:

- A PHA that originally selected a family that subsequently decides to move out of the jurisdiction of the selecting PHA.
- A PHA that absorbed a family that subsequently decides to move out of the jurisdiction of the absorbing PHA.

**Initial Lease Term**

The initial term of the assisted lease. The initial lease term is at least 12 months. At the PHA's discretion, lease term may be shorter than 12 months.

**Initial Payment Standard**

The payment standard at the beginning of the HAP contract term.

**Institution of Higher Education**

An institution of higher education as defined in 20 U.S.C. 1001 and 1002.

**Interim Reexaminations**

Changes in family income or composition between annual reexaminations.

- The PHA may conduct an interim reexamination at any time.
- The PHA must process an interim reexamination whenever one is requested by the family.
- The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition and the timeframe within which the PHA will complete the interim redetermination.

**Is Regarded as Having an Impairment**

As used in the definition of Disability, means:

- Has a physical or mental impairment that does not substantially limit one or more major life activities, but that is treated by another person as constituting such a limitation;
- Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- Has none of the impairments defined under the definition of "physical or mental impairment," below, but is treated by another person as having such an impairment.

**Jurisdiction**

The area in which the PHA has authority, under State and local law, to administer the HCV program.

**Kin-GAP Payments**

Kin-GAP payments are subsidies that go to, or on behalf of, children leaving the juvenile court system to live with a relative or legal guardian. This is an excluded income.

**Kinship Care Payments**

Kinship care payments are foster care subsidies that go to, or on behalf of, children living with a relative or legal guardian. This is an excluded income.

**Landlord**

Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

**Law Enforcement Agency**

The National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. (Note that the NCIC is a division of the Federal Bureau of Investigation (FBI)).

**Lead-Based Paint**

Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead is a highly toxic metal that may cause a range of health problems, especially in young children. When lead is absorbed into the body, it can cause damage to the brain and other vital organs, like the kidneys, nerves and blood.

**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 cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA. For purposes of this part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant."

**Live-In Aide**

A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined by the PHA to be essential to the care and well-being of the person or persons;
- Is not obligated for support of the person or persons; and
- Would not be living in the unit except to provide necessary supportive services.

**Living/Sleeping Room**

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space.

A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition.

**Local Preference**

A preference used by the PHA to select among applicant families.

**Low-Income Family**

A family whose annual income does not exceed 80% 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 80% 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-income family.

**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.

**Manufactured Home Space Rent**

Is the total of (a) the rent charged for the manufactured home space; (b) owner maintenance and management charges for the space the owner must provide under the lease; (c) monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and (d) the applicable PHA utility allowance for tenant-paid utilities.

**Major Life Activities**

As used in the definition of disability, means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

The limitation on major life activity cannot be insubstantial. It must be significant.

**Marriage**

Marriage certified by a formal marriage license, or an informal marriage (common-law marriage), as may be specified in State or local laws or regulations.

**Maximum Initial Rent Burden**

The maximum rent burden at initial occupancy (when the family initially moves into the unit or signs the first assisted lease for a unit). The family may pay the TTP plus the amount by which the gross rent for the unit selected exceeds the applicable payment standard so long as the resulting family share does not exceed 40% of the family's monthly adjusted income.

**Maximum Subsidy**

The maximum amount of subsidy that the PHA can pay for a participant in the HCV program and is calculated as the payment standard minus the TTP.

**Minimum Rent**

Is the PHA-determined minimum TTP amount. The minimum rent is the least a family will contribute toward rent and utilities. The PHA can set the minimum rent anywhere from \$0 to \$50.

**Minor**

A person who is under the age of legal competence and less than 18 years of age, unless otherwise determined by State Law.

**Mixed Family**

A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly Adjusted Income**

One-twelfth of adjusted income.

**Monthly Income**

One-twelfth of annual income.

**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, including Puerto Rico, the U.S. Virgin Islands, Guam, Canal Zone, etc.

**Near-Elderly Person/Family**

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

**Net Family Assets**

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD home-ownership programs.

The value of necessary items of personal property, such as furniture and automobiles, shall be excluded.

In cases where a trust fund has been established and the trust is not revocable by, or under the control of any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.

In determining net family assets, the PHA shall include the value of any assets disposed of by an applicant or family for less than fair market value, including a disposition in trust, but not in a foreclosure or bankruptcy sale, during the two (2) years preceding the date of application for the program, or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or family received important consideration not measurable in dollar terms.

**Noncitizen**

A person who is neither a citizen nor a national of the United States.

**NOFA**

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Normal Wear and Tear**

Means deterioration which occurs, based upon the use for which the rental unit is intended, without negligence, carelessness, accident, abuse or intentional damage of the premises, equipment or chattels of the owner by the family, members of the family's household, or by their invitees or guests. However, uncleanliness does not constitute normal wear and tear.

**Obligations of the Family**

An agreement, in the form prescribed by HUD, between the PHA and the family to be assisted under the HCV program, stating the obligations and responsibilities of the family

**Other Person Under the Tenant's Control**

Means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

**Overcrowded**

A unit that does not meet the following HQS space standards: Provide adequate space and security for the family; and Have at least one bedroom or living/sleeping room for each two persons.

**Owner**

Any person or entity, including a cooperative, having the legal right to lease or sublease a unit to a participant.

**Participant**

A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Passbook Rate Calculation**

The PHA will use the actual Savings National Rate that is in effect on the first day of the PHA's fiscal year. The PHA will review the Savings National Rate annually and adjust it accordingly on the first day of the PHA's fiscal year. Current and historical Savings National Rates may be accessed at [www.fdic.gov/regulations/resources/rates/](http://www.fdic.gov/regulations/resources/rates/).

**Payment Standard**

The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Payment Standard Schedule**

Is a schedule that establishes payment standard amounts by unit size (number of bedrooms) for each FMR area in the PHA jurisdiction.

**Person with Disabilities for Eligibility**

Is person who:

- Has a disability, as defined in 42 U.S.C. 423;
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that: Is expected to be of long continued and indefinite duration; Substantially impedes his or her ability to live independently, and Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- Has a developmental disability as defined in 42 U.S.C. 6001;
- Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- Means "individual with handicaps", as defined in §8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

**Person with Disabilities for Reasonable Accommodations**

Any person who:

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

**PHA Plan**

The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**Physical or Mental Impairment**

As used in the definition of Disability, includes:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculo-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; Genitourinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as intellectual or development disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, intellectual or development disabilities, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

**Portability**

Means the ability to rent 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 units is located, including common areas and grounds.

**Preponderance of Evidence**

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

**Previously Unemployed**

With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Program Receipts**

HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

**Promptly**

Means within 10 calendar days

**Prorated Assistance**

For families that include both members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or elect not to state that they have eligibility), the amount of assistance is prorated based on the percentage of household members who are citizens or have established eligible immigration status.

**Public Housing Agency (PHA)**

Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in, or to assist in the development or operation of low-income housing.

**Public Use Areas**

Interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.



**Qualified EID Family**

A family receiving HCV tenant-based rental assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

**Reasonable Accommodation**

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations.

**Reasonable Modification**

Is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. Examples include the installation of a ramp into a building, lowering the entry threshold of a unit, or the installation of grab bars in a bathroom. Under the Fair Housing Act, prohibited discrimination includes a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

**Reasonable Rent**

A rent to owner that is not more than either:

- Rent charged for comparable units in the private unassisted market; or
- Rent charged by the owner for a comparable unassisted unit in the building or premises.

**Receiving PHA**

In portability, a PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the

family.

**Reexaminations**

The PHA must reexamine the income and composition of all families at least once 12 months. The family is required to submit any certification, release, information or documentation that the Housing Authority or HUD has determined necessary.

The PHA will adjust the total tenant payment and housing assistance payment to reflect the changes in income and family composition.

**Rent to Owner**

The total monthly rent payable to the owner under the lease for the unit. Rent to owner includes payment for any housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

**Responsible Entity**

For the Section 8 tenant-based assistance and the Section 8 project-based voucher programs, the responsible entity means the PHA administering the program under an ACC with HUD.

**Section 214**

Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for non-citizen unless they meet one of the categories of eligible immigration status specified in Section 214. See also paragraph 1-2, Authority.

**Section 214 Covered Programs**

Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437-1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z-1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

**Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibits discrimination on the basis of disability in program and activities conducted by HUD or any federal agency that receive financial assistance.

**Security Deposit**

Means an amount of currency delivered to the owner/landlord by the family as a pledge to abide by terms or conditions of the rental agreement.

**Setup Charges**

Charges payable by the family for assembling, skirting and anchoring the manufactured home.

**Sexual Assault**

Any nonconsensual sexual act proscribed by federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sex-Offender**

HUD determines a sex-offender to be someone who is required to be registered in a state life-time sexual offender registry.

**Sexual Orientation**

One's emotional or physical attraction to the same and/or opposite sex (*e.g.*, homosexuality, heterosexuality, or bisexuality).

**Shared Housing**

Special housing type: A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

**Single Family Home**

Means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

**Single Room Occupancy**

Special housing type: A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities and which is suitable for occupancy by a single eligible individual capable of independent living.

**Social Security Number**

The number that is assigned to a person by the Social Security Administration of the Department of Health and Human Services, and that identifies the record of the person's earnings that are reported to the Administration.

The social security number has nine digits separated by hyphens, as follows: 000-00-0000. It does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary under the Social Security System.

**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**

Subpart M of part 982. States the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

**Spouse**

Spouse refers to the marriage partner 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-head.

**Stalking**

The term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Stalking may include to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and/or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily harm to: that person; a member of the immediate family of that person; or the spouse or intimate partner of that person. Immediate family member means, with respect to a person - a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood and marriage.

**State**

Any of the States of the United States of America, the District of Columbia, the territories and possessions of the United States (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, U.S. Virgin Islands) and Indian tribes.

**SWICA**

State Wage Information Collection Agency (SWICA), the State agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy Standards**

Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Supportive Services**

Those appropriate services that a PHA will make available, or cause to be made available to an FSS family under a contract of participation, and may include:

- Childcare: Childcare of a type that provides sufficient hours of operation and serves an appropriate range of ages;
- Transportation: Transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;

- Education: Remedial education; education for completion of secondary or post-secondary schooling;
- Employment: Job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;
- Personal welfare: Substance/alcohol abuse treatment and counseling;
- Household skills and management: Training in homemaking and parenting skills; household management; and money management;
- Counseling: Counseling in the areas of: The responsibilities of homeownership; Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and Money management; and
- Other services: Any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that the PHA may determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

**Suspension**

The term on the family's voucher stops from the date that the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied.

**Temporary Protective Status (TPS)**

Provides families with temporary immigration status to the United States. Families that are granted TPS under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106- 386) are provided with a "T" visa and are considered to have eligible immigration status under Section 207 of the Immigration and Nationality Act (INA). Families with a "T" visa are eligible for full housing assistance.

**Tenancy Addendum**

The HAP contract form required by HUD shall include an addendum (the "tenancy addendum"), that sets forth:

- The tenancy requirements for the program (in accordance with this section and §§982.309 and 982.310); and
- The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide).
- All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

**Tenant**

The person or persons (other than a live-in aide) who executed the lease as lessee of the dwelling unit.

**Tenant-Based**

Rental assistance that is not attached to the structure.

**Tenant Rent**

See Family Rent to Owner

**Term**

Means the period of occupancy specified in the rental agreement.

**Total Tenant Payment (TTP)**

Is the minimum family contribution to the gross rent and is calculated as the greater of:

- 30% of monthly adjusted income;
- 10% of monthly income;
- The welfare rent (in as-paid states only); or
- The PHA minimum rent.

**Unit**

The residential space for the private use of the family.

**Upfront Income Verification (UIV)**

Is the verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

**Utilities**

Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility Allowance**

If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent, but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the PHA or HUD of the monthly costs of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary, and healthful living environment.

The utility allowance for the family shall be the lesser of:

- The size of unit actually leased by the family; or
- The family unit size as determined under the PHA subsidy standards.

In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA must use the appropriate utility allowance for the size of the unit actually leased by the family.

**Utility Hook Up Charges**

Costs payable by the family for connecting its manufactured home to utilities such as water, gas, electrical and sewer lines.

**Utility Reimbursement**

Is the amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. The portion of the housing assistance payment that exceeds the amount of rent to the owner. May also be referred to as Utility Allowance Reimbursement Payment or URP.

**VAWA**

The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

**VAWA Crimes**

Collectively domestic violence, dating violence, sexual assault, or stalking.

**Verification Technique Definitions:**

- Upfront Income Verification (UIV) (Level 6)

Using HUD's Enterprise Income Verification (EIV system and the Income Validation Tool (IVT) (not available for income verification of new applicants)

- Upfront Income Verification (UIV) (Level 5)

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

- Written Third Party Verification (Level 4)

An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or PHA request date.

- Written Third-Party Verification Form (Level 3)

A standardized form to collect information from a third-party source (also known as traditional third-party verification). The form is completed by the third party by hand (in writing or in typeset). PHAs send the form directly to the third-party source by mail, or email.

- Oral Third-Party Verification (Level 2)

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit.

- Tenant Declaration (Level 1)

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA.

**Very Low-Income Family**

A low-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.

**Veteran**

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

**Violent Criminal Activity**

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

**Voucher Holder**

A family holding a voucher with an unexpired term (search time).

**Voucher (Rental Voucher)**

A document issued by a PHA to a family selected for admission to the HCV program. The voucher describes the program, and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the HCV program.

**Waiting List**

List of families organized according to HUD regulations and PHA policy who are waiting to be selected for the HCV program.

**Waiting List Admission**

An admission from the PHA waiting list.

**Welfare Assistance**

Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by federal, State, or local governments (including assistance provided under the Temporary Assistance for Needy Family (TANF) program).

**Welfare-to-Work**

Families assisted by a PHA with voucher funding awarded to the PHA under the HUD Welfare-to-Work Voucher Program.

**Welfare Rent**

The portion of welfare assistance specifically designated to meet the family's actual housing costs.



## **NOTICE**

The Nelrod Company has made its best efforts to comply with regulations, laws, and federal/local policies. The Nelrod Company does not offer advice on legal matters or render legal opinions. We recommend that this policy be reviewed by the Housing Authority's general counsel and/or attorney prior to approval by the Board of Commissioners.

The Nelrod Company is not responsible for any changes made to these policies by any party other than The Nelrod Company.