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~~ADMINISTRATIVE PLAN 2025~~

ADMINISTRATIVE PLAN 2027
HOUSING CHOICE VOUCHER PROGRAM

The Housing Authority of the City of Fort Myers

CITY OF FORT MYERS FLORIDA
City of Palms
THE HOUSING AUTHORITY
OF THE CITY OF FORT MYERS, FLORIDA

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Housing Choice Voucher (HCV)/Section 8 [used interchangeably] Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program (the Housing Choice Voucher Program), is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for The **Housing Authority of the City of Fort Myers (HACFM).**

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

Jurisdiction

The jurisdiction of the HACFM is **the county of Lee, Florida.**

A. MISSION STATEMENT

MISSION

The Mission of the Housing Authority of the city of Fort Myers is to provide quality, affordable housing for the low-income individuals and families who cannot afford housing in the private market. The Authority intends to comply with its mission by:

- Engaging community stakeholders as partners to align with HACFM around strategies that will lead to repairing existing units that need improvements; redeveloping conventional public housing as a pathway to creating additional affordable housing opportunities for citizens of Fort Myers; enhancing the Community Supportive Services (CSS) programming; and improvement to our client's access to family resources.
- Providing sustainable housing solutions and self-sustaining Community Supportive Services programs, that can interrupt generational poverty and assist families with upward mobility and economic independence.
- Ensuring organizational excellence through enhancements to our existing compliance policies and procedures, while working toward Financial independence, through creative funding opportunities
- Creating and meeting prioritization plans for the neighborhood transformation of conventional public housing, while adding new affordable housing and market rate opportunities to the citizens in need.

VISION
The vision of the Housing Authority of the City of Fort Myers is to be a catalyst in the community, working toward the achievement of stable housing options, while having the ability to provide residents with a clear pathway to independence and success.

Organizational Structure of the HACFM:
A board of officials that are generally called "commissioners" governs the HACFM. Although some PHA's may use a different title for their officials, this document will hitherto refer to the "Board of Commissioners" as the "Board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the HACFM conducts business and ensures that those policies are followed by HACFM staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success. Formal actions of the HACFM are taken through written resolutions, adopted by the board and entered into the official records of the HACFM.

The principal staff member of the HACFM is the Executive Director (E.D.), who is selected and hired by the board. The E.D. oversees the day-to-day operations of the HACFM and is directly responsible for carrying out the policies established by the commissioners. The E.D.'s duties include hiring, training, and supervising the HACFM's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws and program mandates.

Organizational Chart for the Housing Choice Voucher Department:

- Board of Commissioners Executive Director
- Housing Choice Voucher Director
- Housing Choice Voucher Staff

B. LOCAL GOALS [24 CFR 982.1]

Part I

PHA Goal: Expand the supply of assisted housing
Activities:

- Apply for additional rental vouchers, including special purpose vouchers when appropriate and available.
- Reposition public housing assets utilizing available repositioning options to improve the quality of housing and the availability of housing of choice.
- Engage with political officials, key stakeholders and industry groups to make affordable housing a citywide priority.

PHA Goal: Improve the quality of assisted housing
Activities:

- Utilize the Rental Assistance Demonstration Program (and other HUD approved repositioning tools) to convert public housing to project-based Section 8 assistance

PHA Goal: Increase assisted housing choices
Activities:

- Engage in landlord outreach and training activities to increase the number of landlords participating in the program and further deconcentrating poverty.
- Engage in development activities for new construction of quality affordable housing.

PHA Goal: Ensure equal opportunity and affirmatively further fair housing
Activities:

- Fair housing will be promoted through various seminars, training, posters and pamphlets in collaboration with Lee County Equal Opportunity
- Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:
- Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability:
- Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan.

The HACFM is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The HACFM will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

This Administrative Plan is a supporting document to the HACFM Agency Plan and is available for public review as required by CFR 24 Part 903.

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation**.**

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(21)]

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall not exceed **$0 dollar** per occurrence nor more than **$0 dollar** in the aggregate for each fiscal year without the prior approval of the **Housing Authority of the City of Fort Myers** Board of Commissioners.

E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the HACFM's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

HOTMA implementation for HCV and PBV

HACFM will apply HOTMA Sections 102 and 104 to all applicable HCV and PBV transactions effective January 1, 2027 or later, consistent with Notice PIH 2026-15. Staff will use the revised policies when collecting information for those transactions, including annual reviews started 120 days before the effective date. Provisions already required before January 2027 remain in effect, including cessation of new EID enrollments, HUD-9886-A, specified income exclusions and definitions, and correction of de minimis errors.

The HCV Director will maintain recertification packets, asset declarations, calculation worksheets, hardship request forms, and notices consistent with this Plan. Before implementation, HACFM will configure and validate housing software for the applicable annual amounts, actual and imputed asset income, annual income methodology, interim thresholds and exclusions, and hardship expiration dates. Staff training and quality control will address these requirements and the April 2026 household-composition changes.

HACFM will submit HOTMA-compliant HUD-50058 data using the updated HUD form and compatible software. If the updated form cannot be submitted by the compliance date, HACFM will follow the alternative reporting instructions authorized in Notice PIH 2026-15, Appendix B, until HUD requires transition. A reporting limitation does not authorize use of pre-HOTMA eligibility or rent calculations.

The controlling references are 24 CFR 5.603, 5.609, 5.611, 5.618, and 982.516; Notice PIH 2023-27/H 2023-10, Revision 3 (April 16, 2026); Notice PIH 2026-09; Notice PIH 2026-15; and HUD's September 29, 2026 implementation FAQs. HACFM will apply subsequent effective HUD requirements. Proposed rules are not implemented before their effective date.

F. TERMINOLOGY

- The Housing Authority of the City of Fort Myers (HACFM) is referred to as "PHA" or "Housing Authority" throughout this document.
- "Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.
- "Tenant" is used to refer to participants in terms of their relation to landlords. "Landlord" and "owner" are used interchangeably.
- "Disability" is used where "handicap" was formerly used.

- "Non-citizens Rule" refers to the regulation effective June 19, 1995, restricting assistance to U.S. citizens and eligible immigrants.
- The Section 8 programs are also known as the Regular Tenancy Certificate, Over-FMR Tenancy (OFTO) and Voucher Programs. The Housing Choice Voucher Program refers to the merged program effective as of 10/1/99.
- "HQS" means the Housing Quality Standards required by regulations as enhanced by the HACFM.
- "Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.
- "Merger date" refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.
- See Glossary for other terminology.

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

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

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

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

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

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the HACFM's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the HACFM's office in such a manner as to be easily readable from a wheelchair.

The Housing Authority of the City of Fort Myers' office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the **TTD/TDY telephone line (239) 332-6111.**

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

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

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

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

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

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

The HACFM will provide a written decision to the person requesting the accommodation within 10 days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the HACFM's decision.

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

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

Verification of Disability

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

Outreach

Outreach efforts will include notification of the PHA's 504 Advisory Board as well as all other media and agencies listed in the HACFM's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for admission" chapter.)

Applying for Admission

All persons who wish to apply for any of the HACFM's programs must submit a pre-application as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by HACFM staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applications whether reasonable accommodations are necessary.

I. MANAGEMENT ASSESSMENT OBJECTIVES

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the HACFM is using its resources in a manner that reflects its commitment to quality and service. The HACFM policies and practices are consistent with the areas of measurement for HUD SEMAP indicators.

J. RECORDS FOR MONITORING HACFM PERFORMANCE

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

K. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

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

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

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

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Section 8 Coordinator or higher.

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

PHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

L. FAMILY OUTREACH

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

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

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

M. OWNER OUTREACH [24 CFR 982.54(d)(5)]

The HACFM encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The HACFM encourages participation by owners of suitable units located outside areas of low poverty or minority concentration.

The HACFM conducts **regular** meetings with participating owners to improve owner relations and to recruit new owners.

The HACFM will actively recruit property owners with property located outside areas of minority and poverty concentration and apply for exception payment standards if the PHA determines it is necessary to make the program more accessible in the PHA's jurisdiction.

Chapter 2 ELIGIBILITY FOR ADMISSION
[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

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

A. ELIGIBILITY FACTORS [982.201(b)]

The HACFM accepts applications only from families whose head or spouse is at least 18 years of age [**or emancipated minors under State law**].

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

The HUD eligibility criteria are:

- An applicant must be a "family"
- An applicant must be within the appropriate Income Limits
- An applicant must furnish Social Security Numbers for all family members
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required
- At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the HACFM may provide any financial assistance.
- Not currently receiving duplicative subsidy
- Meet net asset and property ownership restriction requirements

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

The applicant must qualify as a Family. A Family may be a single person or a group of persons. A family includes a family with or without a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The HACFM determines if

any other group of persons qualifies as a family.

A single person family may be:

- An elderly person
- A displaced person
- A person with a disability
- Any other single person

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

A family also includes:

- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs.
- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.
- Two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides is a family.

Upon the PHA's HOTMA 102/104 compliance date, the above definition of family will be amended to include: An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together.

Head of Household

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

Spouse of Head

Spouse means the husband or wife of the head. A spouse never qualifies as a dependent.

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

Co-Head

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

Live-in Attendants

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the HACFM to be essential to the care and wellbeing of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to non-Citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.

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

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

The HACFM will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

24 CFR 982.316 At any time, the HACFM will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HACFM or to another

PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Split Households Prior to Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the HACFM will make the decision taking into consideration the following factors:

- Which family member applied as head of household.
- Which family unit retains the children or any disabled or elderly members. Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- Recommendations of social service agencies or qualified professionals such as children's protective services.

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

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "domestic violence" preference.

The HACFM will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home (See "Establishing Preferences and Maintaining the Waiting List" chapter).

Multiple Families in the Same Household

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

Joint Custody of Children

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

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

FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup [24 CFR 982.315; Notice PIH 2017-08]

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HACFM must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see section 16-IX.D of this plan.)
- In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between members of the assisted family, the HACFM is bound by the court's determination of which family members continue to receive assistance.

HACFM Policy

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

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

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

Remaining Member of a Tenant Family [24 CFR 5.403]

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

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 8, Section 8-H.

DEPENDENTS AND MINORS [24 CFR 5.603]

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

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

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

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

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

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

Disabled Family

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

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

GUESTS [24 CFR 5.100]

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

HACFM Policy

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

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

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

FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

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

HACFM Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of space standards as described in Section 8-I.F. of this policy.

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

ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

HACFM Policy

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

Absent Students

HACFM Policy

When someone who has been considered a family member attends school away from home and has established housing elsewhere, the person will not be considered a family member in determining voucher size and occupancy standards.

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

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

HACFM Policy

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

Absent Head, Spouse, or Cohead

HACFM Policy

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

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

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

HACFM Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is

confined on a permanent basis, they may present, and the HACFM will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

HACFM Policy

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

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

To be eligible for assistance, an applicant must:

Have an Annual Income at the time of admission that does not exceed the **very low-income** limits for occupancy established by HUD.

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

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

- A very low-income family.
- A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within **60** days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.
- A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

To determine if the family is income-eligible, the HACFM compares the Annual Income of

the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Multijurisdictional PHAs: The applicable income limit used for initial issuance of a voucher is the highest income limit within the PHA's jurisdiction.

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

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

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration.

This requirement also applies to persons joining the family after admission to the program.

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

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

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

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals, who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

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

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.
All Ineligible Members. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen Students. Defined by HUD in the non-citizen regulations at 24 CFR 5.522. Not eligible for assistance.

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

Verification of Status Before Admission

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

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

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past 5 years.

~~A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.~~
A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886-A.

The HACFM will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

- The family must not have violated any family obligation during a previous participation in the Section 8 program for 5 years prior to final eligibility determination.
- The PHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed the HACFM or another PHA as a result of prior participation in any federal housing program within 10 days of PHA notice to repay.
- The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before HACFM will allow participation in its Section 8 program.
- The PHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.

- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

G. TENANT SCREENING [24 CFR 982.307)]

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

The HACFM will screen for eligibility criteria including criminal background but will NOT screen for unit suitability.

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

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

Upon request, the HACFM will give the owner:

- The family's current and prior address as shown in the HACFM's records; and
- The name and address (if known by the HACFM) of the landlord at the family's current and prior address.

The same types of information will be supplied to all owners.

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

Qualified and Unqualified Applicants

Information that has been verified by the HACFM will be analyzed and a determination will be made with respect to determining eligibility as

- A family
- Income limits for admission status.
- Citizenship or eligible immigration status,
- Non-criminal background requirements
- Preference category

Assistance to a family may not be delayed, denied, or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals process to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

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

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

I. INELIGIBLE FAMILIES

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

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

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

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

MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a) and 24 CFR 982.552(b)(6)]

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

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

HACFM Policy

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

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

  HACFM Policy

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

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

  HACFM Policy

  In determining reasonable cause, the HACFM will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The HACFM will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

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

~~First, assistance may not be provided to any family if the family's net assets exceed $105,574 (adjusted annually by HUD).~~

First, assistance may not be provided to any family if the family's net assets exceed $109,797 (adjusted annually by HUD).

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

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

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

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

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

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

HACFM Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on space standards in Chapter 8 of this policy.

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

property is located.

HACFM policy for asset restrictions at reexamination

HACFM will enforce the net family asset and suitable-real-property restrictions at admission. For current HCV and PBV participants, HACFM elects not to enforce either eligibility restriction at reexamination, as permitted by 24 CFR 5.618(c). HACFM will continue to obtain and verify asset information as required and include countable asset income in annual income. This election does not waive income reporting, verification, fraud, or other program requirements.

Because HACFM is not enforcing these eligibility restrictions for current participants, a participant will not be terminated solely for exceeding the asset limit or owning otherwise restricted real property. The optional delay of up to six months before initiating termination proceedings is not needed under this election. Any later change to enforcement must be adopted in this Plan and applied consistently with HUD requirements, notice, hearing rights, reasonable accommodation, and VAWA protections.

For geographic suitability determinations at admission, HACFM will evaluate actual travel time, transportation availability, access to employment and school, necessary medical services, and disability-related needs. Staff will document the family's individual circumstances rather than apply an automatic distance cutoff. An exemption from the real-property ownership restriction does not, by itself, exclude the property's value from net family assets.

Commented [1]: POLICY ELECTION FOR REVIEW: The existing plan did not clearly state participant enforcement. This draft selects non-enforcement at reexamination for current HCV/PBV participants under 24 CFR 5.618(c). Confirm this agency choice before adoption.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

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

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

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

Families who wish to apply for any one of the HACFM's programs must apply online at www.hacfm.org and complete application form when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability when Reasonable Accommodation has been requested an approved.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to apply online at www.hacfm.org.

The online application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). This first phase results in the family's placement on the waiting list.

The online pre-application will be dated, time-stamped, and referred to the HACFM's eligibility office where it will be maintained until such time as it is needed for processing.

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

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

The HACFM will utilize the following procedures for opening the waiting list:

When the HACFM opens the online waiting list, the HACFM will advertise through the HACFM website, local news publications serving diverse populations and those least likely apply, and notices to community partners serving substantially the same families. News outlets may include but not limited to:

- The News Press (Fort Myers)
- Cape Coral Breeze
- Wink News

The notice will contain:

- The dates, times, and the online address where families may apply. The programs for which applications will be taken.
- A brief description of the program.
- A statement that public housing residents must submit a separate application if they want to apply for section 8.
- The length of time that the waiting list will remain open.

Limitations, if any, on who may apply. i.e., if the waiting list is open for a specific type of voucher the HACFM will specify as such in the notice.

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

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

If the waiting list is open, the HACFM will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

Closing the Waiting List

The HACFM will close the waiting list at that designated time and date included in the notice of waiting list opening.
When the waiting list is open:

- Any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.
- Depending upon the composition of the waiting list with regard to family types and preferences and to better serve the needs of the community, the HACFM may only accept applications from any family claiming preference(s).

When the application is submitted to the HACFM:

- It establishes the family's date and time of application for placement order on the waiting list.

Reopening the Waiting List

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

HACFM Policy

The HACFM will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The HACFM will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Gulfshore Business
- The News Press
- Cape Coral Breeze
- Wink News

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

The HACFM will utilize an online **pre-application form**. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the online pre-application is to permit the HACFM to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list.

Duplicate applications, including applications from a segment of an applicant household**, will not** be accepted.

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

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

Applicants are required to inform the HACFM [in writing] **of changes in address. Applicants are also required to respond to requests from the HACFM to update information on their application and to determine their interest in assistance.**

E. TIME OF SELECTION [24 CFR 982.204]

When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, subject to income targeting requirements.

When there is insufficient funding available for the family at the top of the list, the HACFM will not admit any other applicant until funding is available for the first applicant.

Based on the HACFM's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on /completion of verification.

F. COMPLETION OF A FULL APPLICATION

All preferences claimed on the pre-application or while the family is on the waiting list will be verified: after the family is selected from the waiting list and prior to completing the full application.

The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

After the preference is verified, when the HACFM is ready to select applicants, applicants will be required to:

- Complete a full application. Applicant will then be interviewed by HACFM staff to review the information on the full application form.
- Participate in a full application interview with a HACFM representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The HACFM interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all

information is complete and accurate.

The full application will be completed when the applicant attends the interview.

Requirement to Attend Interview

The HACFM utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other HACFM services or programs which may be available.

- The head of household is required to attend the interview.
- If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 10 days to review the information and to certifyby signature that all of the information is complete and accurate.
- It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses 2 scheduled meetings, the HACFM will reject the application.
- Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than 3 days from the original appointment date except in cases of emergencies. The request must be made to the staff person who scheduled the appointment.
- If an applicant fails to appear for their interview without prior approval of the HACFM, their application will be denied unless they can provide acceptable documentation to the HACFM that an emergency prevented them from calling

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

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals" chapter)

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

All adult members must sign the HUD-9886-A, Release of Information, the application form and all

supplemental forms required by the HACFM, the declarations and consents related to citizenship/immigration status and any other documents required by the HACFM. Applicants will be required to sign specific verification forms for information which is not covered by the HUD-9886-A. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the HACFM.

Every adult household member must sign a consent form to release criminal conviction records and to allow the HACFM to receive records and use them in accordance with HUD regulations.

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

If the information is not supplied in this time period, the HACFM will provide the family a notification of denial for assistance. (See "Complaints and Appeals" chapter)

G. VERIFICATION [24 CFR 982.201(e)]

~~Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the Voucher.~~

Verify eligibility and income using Chapter 7's current HUD documentation rules, including the general 120-day document standard and specific fixed-income and EIV allowances. Confirm that information still reflects the family's circumstances at admission.

Regardless of these timeframes, criminal history reports will be used as a valid verification for no longer than six (6) months.

H. ASSET INCOME LIMITATION

[24 CFR 982.201]

After the verification process is completed, the HACFM will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HACFM, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACFM will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

I. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

[24 CFR 982.201]

After the verification process is completed, the HACFM will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HACFM, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACFM will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the

housing program.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 960.206, 982.54(d)(1); 982.204, 982.205, 982.206, 982.207]

INTRODUCTION

It is the HACFM's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting lists for admissions in accordance with the policies in this Administrative Plan.

By maintaining accurate waiting lists, the HACFM will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

The HACFM uses the following waiting lists:

1. Housing Choice Voucher (HCV) Program
2. Project Based Voucher Program
    - Individual developments where PBV program applies
    - RAD PBV or PBRA developments

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

The HACFM will maintain information that permits proper selection from the waiting list. The waiting list contains the following information for each applicant listed:

- Applicant name
- Family unit size (number of bedrooms family qualifies for under HACFM subsidy standards)
- Date and time of application Qualification for any local preference
- Racial or ethnic designation of the head of household
- *Annual (gross) family income
- *Number of persons in family

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a PHA representative. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the HACFM determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the HACFM [Notice PIH 2018-24].

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

If HUD awards the HACFM program funding that is targeted for specific families living in specified units, the HACFM will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The HACFM maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

A family displaced because of demolition or disposition of a public or Indian housing project.

A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project.

For housing covered by the Low Income Housing Preservation and Resident Home- ownership Act of 1990.

A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

A non-purchasing family residing in a HOPE I, HOPE II, or HOPE VI project.

Applicants, who are admitted under Special Admissions, rather than from the waiting list, **are not** maintained on separate lists.

Witness Relocation Program

Summary:
The Witness Relocation Program provides rental assistance in the form of Section 8 housing vouchers for the relocation of witnesses in connection with efforts to combat violent crimes that occur in and around public, Indian, and other HUD-assisted housing. Since its inception in 1996, HUD's Office of Inspector General (OIG) has used this program to successfully relocate hundreds of witnesses and their families throughout the United States.

Purpose:
The Witness Relocation Program is designed to offer protection to persons who are

cooperating as witnesses in the government's efforts to combat violent crimes occurring in and around public, Indian, and other HUD-assisted housing. Law enforcement agencies, with the written concurrence of the appropriate prosecutorial entity, may request the emergency relocation of a witness (and their immediate family) that is assisting law enforcement in a criminal matter and fears retribution, or has been threatened as a result of the assistance and/or testimony provided.

The OIG facilitates the protection of witnesses by removing them and their immediate families from potential danger and relocating them to a secure area selected by the OIG in cooperation with the relevant federal, state, tribal, or local law enforcement agencies.

Eligible Customers:
Witnesses to violent crimes occurring in or around public, Indian, or other HUD-assisted housing that cooperate with the relevant governmental law enforcement and prosecutorial agencies in their investigation and prosecution of the perpetrators are eligible for the program. The witness (and their immediate family) is not required to be a current resident of the aforementioned HUD- assisted housing in order to be considered eligible for the Witness Relocation Program but must be otherwise eligible to receive Section 8 housing voucher assistance. Final determination of program eligibility is made by the OIG and HUD's Office of Public and Indian Housing.

EMERGENCY HOUSING VOUCHERS (PIH-2021-15)
Emergency Housing Vouchers (EHVs) were authorized under the American Rescue Plan signed into law on March 11, 202,1 which provides relief to address the continued impact of the COVID 19 pandemic on the economy, public health, State and local governments, individuals and businesses.

Eligibility for these EHVs is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

Eligibility
In order to be eligible for an EHV, an individual or family must meet one of four eligibilities categories:

- Homeless
- At risk of homelessness
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

In general, the verification that the individual or family meets one of these four eligibilities

categories are conducted by the CoC or another partnering agency that makes direct referrals to the HACFM. The CoC or other direct referral partner must provide supporting documentation to the HACFM of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

The following definitions always apply with respect to EHV eligibility, regardless of whether the PHA may have established another definition for any of these terms elsewhere in this administrative plan.

a. Individuals and families who are homeless:
The meaning of "homeless" is as such term is defined in section 103(a) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11302(a)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:
Homeless means:
(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (Including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance.

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008
(7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 18 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent

housing at any time during the 60 days immediately preceding the date of application for homeless assistance.
(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability: or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

b. Individuals or families who are at-risk of homelessness
The meaning of "at-risk of homelessness" is as such term is defined in section 401(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(1)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:
At risk of homelessness.
(1) An individual or family who:
(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD.
(ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition above; and
(iii) Meets one of the following conditions:
(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance.
(B) Is living in the home of another because of economic hardship.
(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance.
(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals.
(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau.
(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

(2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
(3) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

c. Individuals or families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking

This category is composed of any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer.

Domestic violence includes felony or misdemeanor crimes of violence committed by:

a. a current or former spouse or intimate partner of the victim (the term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship),
b. a person with whom the victim shares a child in common,
c. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
d. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
e. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence means violence committed by a person:

a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    1. The length of the relationship.
    2. The type of relationship; and
    3. The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, Tribal, or

State law, including when the victim lacks capacity to consent.
Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
(1) Fear for the person's individual safety or the safety of others; or
(2) Suffer substantial emotional distress.
Human trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102). These are defined as:
Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of 21 age; (and) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

d. Individuals or families who are recently homeless
This category is composed of individuals and families determined by the CoC or its designee to meet the following definition.
Recently homeless is defined as individuals and families who have previously been classified by a member agency of the CoC as homeless but are not currently homeless as a result of homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the CoC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of housing instability. Examples of households that may be defined as recently homeless by the CoC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing. Individuals and families classified as recently homeless must be referred by the CoC or its designee.

Selection

Pursuant to PIH 2021-15 all EH vouchers will be awarded to families who meet the eligibility criteria and are referred but the local Continuum of Care and/or Domestic Violence providers in accordance with Memorandums of Understand established with the partners.

If a waiting list is required for the issuance of EHVs the HACFM will issue place referrals on the waiting list in chronological order from the date of the referral. Preferences established for other TBVs will not apply to EHVs.

9. Waivers and Alternative Requirements.
EHVs are tenant-based vouchers under Section 8(o) of the United States Housing Act of 1937. Unless expressly waived, all statutory and regulatory requirements and HUD

directives regarding the HCV program are applicable to EHVs, including the use of all HUD required contracts and other forms.

The administrative policies adopted in the PHA's written administrative plan apply to the EHVs vouchers unless such local policy conflicts with the requirements of the ARP.

These waivers and alternative requirements have been determined by the Secretary to be necessary to expedite and facilitate the use of the EHV funding. These waivers or alternative requirements are exceptions to the normal HCV requirements, which otherwise apply to the administration of the EHVs.

a. COVID-19 waivers (waivers authorized for the regular HCV program under the CARES Act)
The Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136) provides HUD with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the HCV program. However, the CARES Act waiver authority does not cover EHV funding appropriated by the ARP. HUD recognizes that the challenges the COVID-19 pandemic has created for the regular HCV program will likewise apply to the administration of the EHVs. Consequently, HUD is exercising its waiver authority under the ARP to provide some of the same menu of HCV-applicable CARES Act waivers to PHAs for administration of the EHV assistance. The use of these COVID-19-related EHV waivers is at the discretion of the individual PHA. A PHA may choose to apply all, some, or none of the waivers to the EHV assistance.
Unlike the other ARP waivers provided through this notice, these EHV COVID-19 waivers have limited periods of availability that currently match the same periods of availability for the CARES Act waivers. The period of availability for these EHV COVID-19 waivers/alternative requirements, collectively or individually, may be further extended by PIH notice should HUD determine that such similar extension is necessary for the CARES Act waivers, or if HUD otherwise determines it necessary to further extend these waivers for the EHVs. PHAs that implement these waivers are not required to keep the waiver/alternative requirement in-place for the full period of availability (Including any extension) but may at any time choose to revert to regular program requirements and operations.
Attachment 1 of this notice provides the list of COVID-19 related waivers that the PHA may apply to the EHV. PHAs should refer to Notice PIH 2021-14 or its successor notice(s) for detailed information on the individual waivers listed in Attachment 1.
b. Required partnerships with the CoC and other organizations for direct referrals and services EHVs are one of several resources that communities can use to house individuals and families who are experiencing homelessness or have unstable housing. To ensure that the
EHVs assist families who are most in need, PHAs are required to work with community partners to determine the best use and targeting for the vouchers along with other resources available in the community.
c. Admissions process - Direct referrals from the CoC and other partnering

organizations
PHAs must accept referrals for EHVs directly from the CE System. Accepting direct referrals from the CE System will help ensure families are able to get assistance quickly and eliminate the administrative burden on the PHA regarding the determination as to whether the family meets the definition of a qualifying individual or family for EHV assistance. CoC partners may also support applicants through the application process and attend meetings with applicants and PHAs to aid individuals and families through the admissions process
d. Required housing search assistance
Housing search assistance can help EHV participants successfully move to areas of higher opportunity, as well as broaden the pool of landlords participating in the EHV program, including culturally or racially diverse landlords and landlords with smaller numbers of units. HUD has established as an alternative requirement that the PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

Housing search assistance is a broad term which can include many activities, but with respect to this requirement it must at a minimum (1) help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods, (2) provide transportation assistance and directions to potential units, (3) conduct owner outreach, (4) assist with the completion of rental applications and PHA forms, and (5) help expedite the EHV leasing process for the family
e. Separate waiting list for EHVs
The HCV program regulations at § 982.204(f) provide that a PHA must use a single waiting list for admission to its HCV program. HUD is waiving § 982.204(f) to establish an alternative requirement under which the PHA shall maintain a separate waiting list for EHV referrals/applicants to help expedite the leasing process, both at initial leasing and for any turnover vouchers that may be issued prior to the September 30, 2023, turnover voucher cut-off date.
Because the EHV waiting list is based on direct referrals or requests through the PHA's VAWA emergency transfer plan and not applications from the general public, HUD is also waiving § 982.206, which requires the PHA to give public notice when opening and closing the waiting list. Under this alternative requirement, the PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

C. WAITLIST PREFERENCES [24 CFR 982.207]

PREFERENCE DEFINED

The preferences recognized by the HACFM are: (All preferences will be verified)

1.A Emergency Housing Voucher (EHV) Priority Preference – 100 points

A family that received assistance for the Emergency Housing Voucher (EHV) Program under the American Rescue Act of 2021 and had assistance rescinded due to over-leasing after the deadline of September 30, 2023, will receive preference for regular voucher assistance. The family will be eligible for this preference providing:

- The family was issued an EHV after September 30, 2023
- The family was leased and entered into a HAP Contract after September 30, 2023
- The family meets voucher eligibility requirements

1.B Public Housing Resident Relocation, including RAD relocation – 100 points

A family currently resident in a PHA-owned Public Housing Community that is repositioned to a Section 8 Housing Choice Voucher Program. The family will be eligible for this preference providing:

- The family resides in the unit at the time of the conversion and/or resided in the unit in accordance with conversion eligibility requirements defined by HUD.
- The family is in good standing with the PHA
- The tenant does not owe any debts to the PHA during the term of public housing tenancy or is in good standing with an existing repayment agreement.

1.C Affordable Housing Preservation Event: Sale, redevelopment, demolition, or substantial rehabilitation of a property resulting in the displacement of tenants;-100 points

- The Executive Director may designate an Affordable Housing Preservation Event when the loss of affordability, redevelopment, conversion, sale, demolition, or other qualifying circumstance is expected to affect ten (10) or more households within HACFM's jurisdiction.
- When such an event is designated, affected families may be eligible for this preference upon submission of required documentation.
- Documentation Requirements
- Applicants claiming this preference must provide documentation acceptable to HACFM, including but not limited to:
- • Lease agreements;
  • Written notices from property owners or management;
  • Rent increase notices;
  • Notices of non-renewal, redevelopment, demolition, or conversion;
  • Other documentation determined necessary by HACFM.
- Limited Waiting List Openings
- When HACFM determines that an Affordable Housing Preservation Event exists and that a substantial number of households are at risk of homelessness, HACFM may conduct a limited waiting list opening for families affected by the event.
- The Board of Commissioners may authorize such limited openings when necessary to address local housing needs and preserve housing stability. HACFM will publicly advertise eligibility requirements, application procedures, and applicable deadlines.

2. Project Based Voucher Client requesting a Housing Choice Voucher – 90 Points

- A family Currently residing in a Project Based unit may request, in writing, a Housing Choice Voucher after successfully fulfilling the first year of tenancy in the Project based unit.
- A family who successfully fulfilled the lease and gave proper notice to vacate will also

be eligible as long as the family requested, in writing, a Housing choice voucher prior to vacating.

3. RAD Project Based Voucher client request a Housing Choice Voucher – 90 points

** RAD a voucher holders requesting a tenant based voucher and given the preference will be limited to 75% of the HA's annual voucher turnover.

4. RAD PBRA residents exercising Choice Mobility – 90 Points

- HACFM will limit the number of vouchers used for choice-mobility to one-third of its annual turnover vouchers and limit the number of choice-mobility moves from any given property in a year to 15%

5. Emergency/Federally Displaced Preference - 40 Points

The HACFM shall grant preferences to families of federally declared disasters who are public housing residents from another jurisdiction and other eligible disaster-affected families who are income eligible. This preference will remain in place until the emergency no longer exists, or the displaced status (of the family) no longer exists.

Families that apply under this preference when the waitlist is closed and upon eligibility verification reveal they no longer qualify as displaced for the preference, will be removed from the waitlist.

Families that were on the waitlist PRIOR to requesting the preference, and no longer qualify for the preference, will have the preference points removed but remain on the waitlist in the original date/time order

5. Displaced Person by State/Local Government Action or HOPE VI/Subsidized Housing Demolition - 30 Points

Individuals or families displaced by State/Local Government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Relief Laws.

6. Veterans Status - 20 Points

Preference shall be given to Veterans or servicemen as defined by Florida Statues (FL295.01): A 'veteran" or a serviceman" means a person who has served in the Armed Forces of the United States at any time and, in the case of a veteran, has been discharged or released there from under conditions other than dishonorable, or in the case of a serviceman, is presently in the Armed Forces of the United States. The preference granted to Veterans or servicemen as defined by FL S315.300, shall be extended to include families of veterans and servicemen. A family of a veteran or serviceman is therefore further defined as follows:

The veteran or serviceman is (a) either the Head of Household or is related to the Head of Household; or (b) deceased and was related to the Head of Household, and was a family member at the time of death or (c) the veteran or serviceman, unless deceased, is living with the family or is only temporary absent unless he/she was (1) formerly the Head of Household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided the family has not remarried; or (2) not the Head of Household but is permanently hospitalized, provided that he/she was a family member at the time of hospitalization and there remains in the family at least two (2) related persons.

7. Mainstream Vouchers - 18 Points

HACFM will offer a preference to Any Household that Includes one or more non-elderly person (age 18 to 62) with disabilities that are.

- **Transitioning out of institutional or other segregated settings t**hat include, but are not limited to:
  (1) congregate settings populated exclusively or primarily with individuals with disabilities.
  (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
  (3) settings that provide for daytime activities primarily with other individuals with disabilities.
- **At serious risk of institutionalization or other segregated settings**; Includes an individual with a disability who as a result of a public entity's failure to provide

community services or it's cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution. This includes individuals experiencing lack of access to supportive services for independent living, long waiting lists for or lack of access to housing combined with community- based services, individuals currently living under poor housing conditions or homeless with barriers to geographic mobility, and/or currently living alone but requiring supportive services for independent living. A person cannot be considered at serious risk of institutionalization unless the person has a disability. An individual may be designated as at serious risk of institutionalization either by a health and human services agency, by a community-based organization, or by self-identification.

- **Homeless**
  (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.
    (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
    (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
  (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
    (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance.
    (ii) No subsequent residence has been identified
- **At risk of becoming homeless** Meets one of the following conditions:
  (1) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance.
  (2) Is living in the home of another because of economic hardship;
  (3) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance.
  (4) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals.
  (5) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau.
  (6) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction

program or institution); or
(7) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness

HACFM will except the coordinated referral from partner agencies and local HMIS as well as individuals claiming a preference. HACFM will require documentation to verify preference.

8. Homeless Preference – 15 Points

HACFM will issue not more than 50 Homeless Preference Vouchers to homeless families per year pending funding availability. A family that is considered to be homeless as defined by Lee County Department of Human Services Lift Program and or The Salvation Army and must be a client of Lee County Department of Human Services Lift Program or the Salvation Army homeless population. These households require initial, intermittent or ongoing supportive services from one or more community-based service providers to obtain and retain stable, adequate and safe housing.
Homeless means a family who lacks a fixed, regular, and adequate nighttime residence or a family who has a primary nighttime residence that is:

(a) A Supervised publicly or privately operated shelter designed to provide temporary living accommodations, including congregate shelters and transitional housing.
(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or
(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term Homeless does not refer to any individual imprisoned or otherwise detained pursuant to state or federal laws.

9. Victims of Domestic Violence (VAWA) - 10 Points

HACFM will offer a preference to families/persons that have been subjected to or a victim of domestic violence, dating violence, sexual assault, or stalking. HACFM will require documentation that the family has been displaced as a result of fleeing domestic violence, dating violence, sexual assault, or stalking. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.

1. Actual or threatened physical violence directed against the applicant or the applicant's family, spouse or other household member who lives in the unit with the family. The actual violence must have occurred within the past six (6) months or be of a continuing nature.
2. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is NOT considered involuntarily displaced.
3. To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser WILL NOT reside with the applicant. If the abuser returns to live with the family withoutapproval,

HACFM will deny and or terminate assistance for breach of the certification.

4. Acceptable forms of documentation you are or have been a victim of domestic violence, dating violence, sexual assault or stalking:

   a) All requests must be in writing and provided to HACFM within 14 business days from the days of receipt of the request to provide the documentation. Failure or refusal to provide one of the documents listed below within 14 days of the request will result in no preference given. If HACFM receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault or stalking has been committed, HACFM will request third-party documentation within 30 calendar days in order to resolve the conflict. If the applicant fails or refuses to supply third-party documentation where there is conflicting evidence HACFM will not provide the preference.

   b) Completed HUD form 5382 – Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, OR

   c) A Federal, State, Tribal or Local law enforcement agency, court, or administrative agency that documents domestic violence, dating violence, sexual assault or stalking (police reports, protective order, and restraining orders); OR

   d) A statement which you must sign along with a signature of an employee, agent or volunteer of a victim service provider, an attorney, a medical professional or mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he/she believes that the incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

   e) Certified letter from the Abuse, Counseling and Treatment Center (ACT).

10. Local Preference – 5 Points

1. Persons and or families must reside in Lee County or who are working or have been hired to work in Lee County.

2. Applicant must provide proof of residency to HACFM upon request and before Voucher issuance. Example of proof of Lee County residency or Lee County employment would be:

a. Signed lease agreement and utility bill in applicant's name
b. School or graduation records for applicant
c. Voter registration Card
d. Driver's License and Proof of Current home address
e. Employment records that document employment in Lee County
f. Letter from Employer stating your current or future hire date in Lee County

11. All Other Applicants - 0 Points

No preference

*****The qualification for any of the above-mentioned preferences MUST exist at the time the preference is verified regardless of the length of time an applicant has been on the waitlist. The preference is based on the current status of the family at the time of determination of eligibility.**

D. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the HACFM will reserve a minimum of seventy-five percent **(75%)** of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families." The HACFM will admit families who qualify under the Extremely Low-Income limit to meet the income targeting requirement, regardless of preference.

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

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

E. TARGETED FUNDING [24 CFR 982.203]

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

Applicants who are admitted under targeted funding which are not identified as a Special Admission the HACFM has the following "Targeted" Programs:

The PHA does not have any targeted programs.

F. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

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

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

Other Housing Assistance [24 CFR 982.205(b)]

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

The HACFM may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- Refuse to list the applicant on the HACFM waiting list for tenant-based assistance; Deny any admission preference for which the applicant is currently qualified.
- Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the HACFM selection policy; or
- Remove the applicant from the waiting list.

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

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

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

* HCV Program - Preference Date and Time

* PBV Program - Bedroom Size, Preference, Date and Time

* Special purpose vouchers – according to individual program rules

H. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the HACFM will:

Obtain necessary verifications of preference at the interview and by third party verification.

I. PREFERENCE DENIAL [24 CFR 982.207]

If the HACFM denies a preference, the HACFM will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for **a review. Applicant will have 10 working days to request a review with the Section 8 Director or their designee.** If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference (if the family was on the waiting list prior to claiming the preference). Applicants may exercise other rights if they believe they have been discriminated against.

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

J. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

HACFM Policy

If the HACFM determines that the family is ineligible, the HACFM will send notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The HACFM will notify the family that it has been returned to the waiting list and will specify the reasons for it.

If the HACFM determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

K. REMOVAL FROM THE WAITING LIST

HACFM Policy

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

If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the PHA's decision (see Chapter 16) [24 CFR 982.201(f)].

L. PURGING THE WAITING LIST

HACFM Policy

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the PHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, online web portal, or by fax. Responses should be postmarked or received by the PHA not later than 15 calendar days from the date of the PHA letter.

If the family fails to respond within 15 calendar days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 calendar days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, or to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

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

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

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

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

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

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

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

- **The head of household will receive one bedroom and then additional bedrooms will be assigned at two persons per bedroom.**
- **Foster children will be included in determining unit size only if they will be in the unit for more than** [6] **months.**
- **Live-in attendants will be considered in determining bedroom size voucher following the same subsidy standards. No additional bedrooms are provided for the attendant's family.**
- **Space will not be provided for a child who is away at school.**
- **A single pregnant woman with no other family members must be treated as a two-person family for occupancy standards only.**
- **Single person families shall be allocated** [one] **bedroom.**

If the unit size for which the family is eligible changes during the term of the HAP contract, the "new" unit size is applicable at the first regular reexamination following the change.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	**Persons in Household**	
	Minimum Number	**Maximum Number**
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	6	8
5 Bedrooms	8	10
6 Bedrooms	11	12

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

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

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

*** Verified medical or health reason; or**

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

Request for Exceptions to Subsidy Standards

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

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

Requests based on health-related reasons must be verified by a **[doctor/medical/professional/ social service professional]**.

Changes for Participants

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

Underhoused and Over housed Families

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

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

*** If a family with a disability is under housed in an accessible unit.**

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

*** The HACFM and family have been unable to locate a unit within** [60] **days.**

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

The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet applicable NSPIRE space requirements.

The family may lease an otherwise acceptable welling unit with more bedrooms than the family unit size. However, the utility allowances must be based on the household members and the PHA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the family 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 because of a reasonable accommodation, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

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

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

6-I.A. OVERVIEW [24 CFR 5.609]
Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds ~~$50,000~~$54,898 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

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

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

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

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

Absent Full-Time Students

HACFM Policy

When someone who has been considered a family member attends school away from home and has established housing elsewhere, the person will not be considered a family member in determining voucher size and occupancy standards.

Court-Ordered Absences

HACFM Policy

If a member of the family is subject to a court order that restricts the member from the home, the HACFM will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

Absences Due to Placement in Foster Care

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

HACFM Policy

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

Absences Due to Incarceration

HACFM Policy

If a family member is expected to be incarcerated for more than 180 consecutive days, the person will not be considered a family member. If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

Family Members Permanently Confined for Medical Reasons

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

HACFM Policy

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

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

Joint Custody of Children

HACFM Policy

In the case of joint custody, only one family may claim a child as a dependent. When two assisted families could conceivably claim the child, the two families must resolve the issue and declare which household will receive the dependent deduction. If the two households are unable to resolve the issue, the HACFM will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing and how much time the child spends in each household.

Caretakers for a Child

HACFM Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HACFM will take the following actions.

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

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 60 days. After the 60 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACFM will extend the caretaker's status as an eligible visitor.

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

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

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

HACFM Policy

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

Known Changes in Income

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

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

Using Up-Front Income Verification (UIV) to Project Income

HACFM Policy

HACFM procedures for anticipating annual income will include the use of EIV/UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the HACFM interview date.

The HACFM will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available" in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of $200 or more per month.

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

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

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

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

6-I.C. CALCULATING INCOME AT ADMISSION AND REEXAMINATION

At admission and interim reexamination, HACFM will estimate income expected during the upcoming 12 months under 24 CFR 5.609(c)(1). Income from assets is always anticipated, including at annual reexamination. For annual reexaminations, except when applying authorized fixed-income streamlining, HACFM will use the following process under 24 CFR 5.609(c)(2) and Attachment B of Notice PIH 2023-27, Revision 3.

1. Determine income received during the previous 12-month period, applying current income exclusions. Review the EIV Income Report, the most recent HUD-50058, and the family's certification of prior-year income. The EIV report must be pulled within 120 days before the annual effective date.

2. Consider all interim reexaminations completed since the last annual. If an interim was completed and no additional income changes occurred, use the annual income determined at that interim; verification obtained for that interim may be used for this step.

3. Adjust for current income changes not already reflected, including changes that did not trigger an interim. Verify current information using Chapter 7. Apply Social Security COLAs as changes in income and do not count a discontinued source as continuing income. Document the calculation and reason for each adjustment.

For prospective calculations, use current circumstances and verified known changes. When income fluctuates or is seasonal, use reliable historical information only as an aid to a reasonable projection and document the basis. A historical average does not replace the required annual-review method. Resolve disputed EIV information through appropriate third-party verification and give the family an opportunity to contest adverse information under 24 CFR 5.236. HACFM will not use the former automatic $200-per-month discrepancy rule to select income.

HACFM elects not to use Safe Harbor income determinations from other means-tested programs. Qualifying fixed-income streamlining remains available under Chapter 7; it does not eliminate the annual examination of family income and composition.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

HACFM Policy

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

HACFM will include countable wages, overtime, tips, bonuses, and commissions. At annual reexamination, use Section 6-I.C's prior-year method with required current adjustments. At admission or interim, use reliable current information to project income; historical earnings may support a reasonable estimate when amounts fluctuate. Document why any historical average is representative.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

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

Nonrecurring income is excluded under 24 CFR 5.609(b)(24). Temporary employment or seasonal wages are not automatically excluded merely because hours fluctuate or work is expected to end; apply HUD's nonrecurring-income definition and include countable employment income using Section 6-I.C.

Children's Earnings

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

Certain Earned Income of Full-Time Students

Earnings in excess of ~~$480~~$525 for each full-time student 18 years old or older (except for the head, spouse, or co head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide.

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

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

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

State and Local Employment Training Programs

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

HACFM Policy

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

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

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

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

HUD-Funded Training Programs

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

HACFM Policy

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

Earned Income Tax Credit

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

Earned Income Disallowance

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

No family may newly enroll in the Earned Income Disregard (EID) after December 31, 2023. A family already receiving EID before January 1, 2024 retained only its remaining authorized exclusion period under the transition rules; no new or extended EID period is created by this Plan. Staff will not apply an expired EID exclusion to 2027 transactions.

6-I.E. PERIODIC PAYMENTS

HOTMA income exclusions and related rules

HACFM will apply all exclusions in 24 CFR 5.609(b), including those summarized below. These exclusions apply at admission, annual reviews, and interims; verification of fully versus partially excluded sources follows Chapter 7.

Exclude earned income of children under 18; all income of live-in aides, foster children, and foster adults; payments for foster care; and State or Tribal kinship or guardianship care payments. Exclude qualifying reimbursements for health and medical expenses and qualifying civil recoveries for a breach of duty that resulted in a family member becoming disabled.

Exclude qualifying nonrecurring income, including eligible Census employment, stimulus payments, State refundable tax credits, State or Federal tax refunds, gifts for significant life events, nonmonetary in-kind donations, and lump-sum additions to assets. Do not assign a monetary value to donated food, clothing, or toiletries. Recurring gifts and regular contributions are not excluded merely because they are informal.

Exclude qualifying Title IV student assistance under section 479B of the Higher Education Act. For other qualifying grants or scholarships, exclude only assistance for actual covered educational costs under 24 CFR 5.609(b)(9), after accounting for Title IV assistance; avoid double-counting the same costs. Student loans are excluded as loans, and do not treat all family gifts or compensation for services as student financial assistance.

Exclude income and distributions from qualifying Coverdell and section 529 educational accounts and qualifying baby-bond accounts, subject to the regulation. Apply ABLE account income exclusions under applicable Federal law. Exclude distributions of principal from qualifying irrevocable or family-uncontrolled

trusts and qualifying trust income used for a minor's health and medical costs. For a family-controlled revocable trust, count actual trust earnings when received by the trust, rather than counting distributions again.

Exclude loan proceeds, including reverse mortgages; qualifying amounts paid by State Medicaid or other State or Federal agencies to a family to enable a family member with a disability to reside in the assisted unit; qualifying retirement-account income other than periodic distributions; and the other specific exclusions in 24 CFR 5.609(b). Periodic retirement distributions are income when received. Exclude qualifying deferred SSI, Social Security, and VA disability benefits as directed by the regulation.

For dependent full-time students, include earned income only up to the annual dependent deduction, excluding the excess; this exclusion does not apply to the head, spouse, or cohead. For adoption assistance, include only up to the dependent deduction per child, excluding the excess. The 2027 limit is $525 for each of these rules.

For self-employment, include net business income using 24 CFR 5.609(b)(28). Do not deduct business expansion costs or amortization of capital indebtedness. Deduct allowable depreciation only on a straight-line basis. Count cash or asset withdrawals except reimbursements of the family's investment. Apply exclusions for qualifying employment-training benefits, PASS, resident service stipends, hostile-fire pay, reparations, and federally mandated exclusions according to their governing conditions.

Annual HUD parameters effective January 1, 2027

HACFM will use the HUD-published values applicable to the transaction's effective date. For calendar year 2027: net family asset eligibility limit $109,797; asset self-certification ceiling $54,898; combined non-necessary personal property exclusion threshold $54,898; threshold above which imputed returns may be required $54,898; dependent deduction $525 per dependent; elderly/disabled family deduction $575 per qualifying family; dependent full-time student earned-income and adoption-assistance limits $525; and passbook savings rate 0.38 percent.

The common $54,898 amounts govern separate rules and must be tested separately. These amounts and the passbook rate will be replaced each year by HUD's published amounts without retaining an obsolete amount in staff calculations. Source: HUD User, Calendar Year 2027 Revised Amounts and Passbook Rate, effective January 1, 2027 (https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html).

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

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

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

Insurance payments and settlements for personal or property losses, including health insurance, motor vehicle

insurance, and workers' compensation, are excluded from annual income under 24 CFR 5.609(b)(5). Workers' compensation is excluded regardless of payment frequency or duration. Apply the separate net-asset rules to retained proceeds; an income exclusion does not automatically exclude the resulting asset.

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

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

HACFM Policy

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

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

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

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

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

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

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

Social Security Benefits [Notice PIH 2018-24]

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

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

HACFM Policy

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

Alimony and Child Support

HACFM Policy

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

HACFM will count alimony and child support actually received, rather than the amount legally awarded but not received. Determine the amount using the annual-review method or prospective admission/interim method, as applicable.

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

Court-awarded alimony or child support that is not actually received is not included solely because it is awarded. Verify the amount received using Chapter 7; apply Section 6-I.C for the applicable examination type.

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

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

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

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

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

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

6-I.F. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

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

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

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

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;

- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

- Nonrecurring income that is excluded under the regulations includes:
- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

PART II: ASSET INCOME

6-II.A OVERVIEW

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

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

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

HACFM Policy

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

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

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

HACFM must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

HACFM Policy

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

Separation or Divorce

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

HACFM Policy

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

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Asset Owned by a Business Entity

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

Family Declaration

HACFM Policy

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

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Required asset exclusions and income from assets

Exclude necessary personal property and combined non-necessary personal property within the annual HUD threshold; qualifying IRS-recognized retirement accounts; real property the family lacks effective legal authority to sell; qualifying disability-related civil recoveries; Coverdell, section 529, ABLE, and government-created baby-bond accounts; interests in Indian trust land; qualifying equity in assisted manufactured homes and HCV Homeownership property; FSS accounts; and Federal tax refunds or refundable tax credits for 12 months after receipt. Exclude a qualifying irrevocable or family-uncontrolled trust while the funds remain in that trust. Apply 24 CFR 5.603 to each exclusion.

Subtract qualifying Federal tax refunds and refundable tax credits received within the preceding 12 months from total net family assets, regardless of the account into which they were deposited, consistent with HUD's calculation instructions. Do not deduct the same amount twice or reduce total net family assets below zero. Apply the separate verification exception in Chapter 7.

Include actual anticipated income from each asset unless specifically excluded by 24 CFR 5.609(b). If total net family assets exceed $54,898 in 2027 and actual returns from a specific asset cannot be calculated, impute income on that asset using HUD's 0.38-percent passbook rate. Do not impute income on assets whose actual returns can be calculated, do not impute at or below the threshold, and do not apply the former greater-of-actual-or-imputed-total-income rule. Document the asset-specific calculation.

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- ~~When the combined value of net family assets is greater than $50,000$54,898, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.~~

When the combined value of all non-necessary personal property exceeds the applicable HUD threshold ($54,898 for 2027), include the value of that non-necessary personal property in net family assets. Test the combined non-necessary personal property value before determining net family assets.

- When the combined value of all non-necessary personal property does not exceed ~~$50,000~~$54,898, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.
  However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- ~~When the combined value of net family assets is greater than $50,000$54,898, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.~~

When the combined value of all non-necessary personal property exceeds the applicable HUD threshold ($54,898 for 2027), include the value of that non-necessary personal property in net family assets. Test the combined non-necessary personal property value before determining net family assets.

- When the combined value of all non-necessary personal property does not exceed ~~$50,000~~$54,898, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

HACFM Policy

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

~~The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds $50,000$54,898 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed $50,000$54,898, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.~~

Include the combined value of non-necessary personal property in net family assets only when it exceeds the HUD-adjusted threshold ($54,898 for 2027). Asset value itself is not annual income. Include actual asset income unless specifically excluded, even when the underlying asset value is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

HACFM Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The HACFM will consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the HACFM chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

HACFM Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

HACFM Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations,* p. 24].

PART III: DEDUCTIONS

6-III.A. OVERVIEW

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

~~5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:~~

~~(a) *Mandatory deductions*~~

~~(1) $480$525 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);~~

~~(2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);~~

~~(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:~~

~~(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;~~

~~(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and~~

~~(4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.~~

Adjusted income is annual income less applicable mandatory deductions under 24 CFR 5.611. For 2027 deduct $525 for each dependent and $575 for an elderly or disabled family; deduct qualifying combined health/medical and disability-assistance expenses above 10 percent of annual income, subject to applicable hardship relief; and deduct qualifying child-care expenses. Use HUD's annually adjusted amounts.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

HACFM Policy

The HACFM will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations,* p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

An allowance of ~~$480~~$525 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of ~~$525~~$575 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent (10%) of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align

their policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of *health and medical care expenses*.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

HACFM Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

HACFM Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

HACFM Policy

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

HACFM Policy

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

HACFM Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

HACFM Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

HACFM Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the PHA.

Furthering Education

HACFM Policy

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

HACFM Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

~~When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480$525 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.~~

When child care enables employment, the employment-related child-care deduction may not exceed the earned income included in annual income for the person enabled to work. For a dependent full-time student, apply the current dependent earnings exclusion before determining this cap. Do not apply an expired EID exclusion to 2027 calculations.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

HACFM Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

HACFM Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

HACFM Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person

with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

~~The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.~~

For each eligible family, phased-in relief begins at the first annual or interim reexamination at which HACFM applies the relief. Staff will record the start date, the 5-percent period ending after 12 months, the 7.5-percent period ending after the next 12 months, and the transition to 10 percent. Staff will track general and child-care hardship start and expiration dates, approved 90-day extensions, and required notices, including updates that must be reported as non-interim transactions.

HACFM will provide mandatory phased-in relief to families eligible under the effective version of 24 CFR 5.611(c)(1) and applicable HUD implementation requirements. The existing regulation identifies families receiving the applicable deduction as of January 1, 2024. HUD's September 29, 2026 FAQ announces a forthcoming rule revising that eligibility date. Once that rule becomes effective, HACFM will apply its revised eligibility standard, including qualifying families receiving the deduction at their most recent income review before the January 1, 2027 compliance deadline, as required by that rule. Staff will not treat an announced but not-yet-effective rule as effective.

Commented [2]: REGULATORY UPDATE: As of the September 29, 2026 HUD FAQ, the broader eligibility-date amendment was still forthcoming. This paragraph is conditional. Verify the final rule and its effective date before implementation.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
    - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is

treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

HACFM Policy

The PHA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

HACFM Policy

~~To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.~~

To qualify for general hardship relief, a family must submit a request in writing or through an approved reasonable accommodation. The family must demonstrate either that qualifying health/medical or disability-assistance expenses increased, other than solely because of the higher deduction threshold, or that a change in circumstances creates a financial hardship that would not otherwise trigger an interim. HACFM will evaluate these as alternative grounds, obtain available verification, and document the basis for its decision. A qualifying change in circumstances may include a decrease in income or increase in other necessary expenses that affects the ability to pay rent.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

HACFM Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

HACFM Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

HACFM Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The HACFM defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

HACFM Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request an informal grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

HACFM Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]

HACFM has opted-out of permissive deductions.

6-IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent of $50

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

HACFM Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HACFM Policy

The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-IV.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-IV.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the HACFM subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

HACFM Policy

The PHA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

HACFM Policy

The PHA will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

The HACFM will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA

determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

HACFM Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

HACFM Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

HACFM Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

HACFM Policy

The HACFM has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HACFM Policy

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$50 Minimum rent	$50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

HACFM Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

HACFM Policy

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

HACFM Policy

The HACFM will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

HACFM Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

Extension of Hardship

HACFM Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The HACFM will extend relief for an additional 90-days if the family demonstrates to the HACFM's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The family must provide updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, HACFM may terminate the hardship exemption it is determined that the family no longer qualifies for the exemption.

6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

HACFM's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HACFM's payment standards. The establishment and revision of the HACFM's payment standard schedule are covered in Chapter 15.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the **lower** of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HACFM's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the HACFM has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the HACFM must use the appropriate payment standard for the exception area.

The HACFM is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the HACFM will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the HACFM revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The HACFM will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the HACFM will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The HACFM will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HACFM at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HACFM will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the HACFM has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

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

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

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

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the HACFM will establish a higher payment standard for the family within the basic range, up to 120% of the Payment Standards.

6-IV.D. UTILITY ALLOWANCES [24 CFR 982.517]

Overview

HACFM-established utility allowance schedule is used in determining family share and HACFM subsidy.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with NSPIRE. HACFM will maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection. Costs for telephone, cable/satellite TV, and Internet services are not included in the utility allowance schedule.

The cost of each utility and housing service is stated separately by unit size and type. For policies on establishing and updating utility allowances, see Chapter 16.

HACFM Policy

HACFM uses the utility allowance of the lower utility allowance amount for the family unit size of the utility allowance amount for the actual unit size rented by the family.

Reasonable Accommodation

HACFM Policy

The family must request the higher allowance and provide HACFM with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8]. HACFM will approve a utility allowance amount higher than shown on the HACFM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability.

Utility Allowance Revisions

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

Revised utility allowances will be applied to a family's rent and subsidy calculations at the next annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].

Air-Conditioning

HACFM Policy

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

6-IV.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The HACFM will prorate the assistance provided to a mixed family. The HACFM will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

The HACFM will verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The HACFM will follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

A. METHODS OF INCOME VERIFICATION AND TIME ALLOWED

~~The HACFM will verify income information through these five methods of verification acceptable to HUD in the following order:~~

1. ~~Upfront Income Verification (UIV): The verification of income at admission or before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. HUD's Enterprise Income Verification System (EIV) is considered to be this method~~
2. ~~Written Third-Party: This method used to verify information directly with the source to substantiate claims made by the family. This verification form is to be sent and received directly from the source and not to be handled by the applicant or participant.~~
3. ~~Oral Third-Party: Oral third-party verification will be used when written third-party verification is delayed or not possible. The most common method will be by telephone.~~
4. ~~Review of Documents: The HACFM will review documents, when relevant to substantiate the claim of an applicant or participant.~~
5. ~~Self-Certification/Declaration: When verification cannot be made by the first four methods, families will be required to submit self-certification. This is to be a notarized statement; or a statement written and signed by the family member in the presence and witnessed by an authorized HACFM representative.~~

~~If third-party verification is not received directly from the source, HACFM staff will document the file as to why third-party verification was impossible to obtain and another method was used (such as reviewing documents families provide)~~

HOTMA verification hierarchy

HACFM will use the verification hierarchy in Notice PIH 2023-27, Revision 3, Attachment J: Level 6, HUD EIV; Level 5, non-EIV upfront income verification; Level 4, authentic third-party documents, including documents supplied by the family, or EIV plus family self-certification where permitted; Level 3, a written third-party verification form; Level 2, oral third-party verification; and Level 1, family self-certification. Level 3 or Level 2 may be used before moving to self-certification as permitted by HUD. Self-certification may be used directly when expressly authorized, including qualifying assets and zero income.

Authentic source-generated documents supplied by a family are third-party verification and do not rank below a direct verification form solely because the family supplied them. Generally accept documents dated within 120 days before HACFM receives them. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable. EIV reports used for annual calculations must be pulled within 120 days before the annual effective date.

When relying on pay stubs to project wages, obtain at least two current, consecutive pay stubs. If two are not yet available for a new source, obtain an employer statement or the best available reliable information and document the reason. When verification of banking or financial assets is required, obtain at least one statement showing the current balance. Do not automatically average six checking-account balances.

If required third-party verification is unavailable, document the attempts, why it was unavailable or rejected, and the alternative used. Do not require those attempts where HUD expressly permits self-certification. A signed family certification may be electronic; notarization or witnessing is not a blanket condition of acceptance.

HACFM will obtain the EIV Income Report at every annual reexamination because HACFM does not use Safe Harbor. For admissions, use other verification to determine income and complete required post-admission EIV review within HUD's prescribed timeframes. Use EIV at interims as required by Attachment J for the transaction and circumstances; do not impose a blanket requirement to run income reports at every interim. Continue required identity, existing-tenant, deceased-tenant, and discrepancy reviews, including Notice PIH 2026-11.

The HACFM will not delay the processing of an application beyond ten (10) working days because a third-party information provider does not return the verification in a timely manner.

B. RELEASE OF INFORMATION

~~All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:~~

~~All adult applicants and participants sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-~~

~~9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886-A at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:~~

All adult applicants and participants, and the head, spouse, or cohead regardless of age, must execute the current HUD-9886-A. HACFM required transition to HUD-9886-A no later than February 1, 2025. The consent continues until denial, termination, or written revocation; it is not renewed annually solely because an annual reexamination occurs. Obtain a new signature when a required person joins the household, a member turns 18, or HUD otherwise requires it.

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

HACFM Policy

~~Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.~~

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A at the family's next annual or interim reexamination, whichever is earlier.

~~The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).~~

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

~~However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.~~

HACFM elects that revocation of consent to access financial records will result in denial of admission or termination of assistance under 24 CFR 5.232(c), with required written notice and informal review or hearing rights. HACFM may not process an annual or interim income reexamination without required executed consent forms. Staff will explain the effect of revocation before taking action and apply applicable reasonable-accommodation and due-process requirements.

Commented [3]: POLICY ELECTION FOR REVIEW: This draft expressly selects denial/termination for financial-record consent revocation. The earlier plan quoted the available option without clearly choosing it. Confirm before adoption.

C. ITEMS TO BE VERIFIED

C-1. VERIFICATION OF LEGAL IDENTITY

HACFM Policy

The HACFM will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicles identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current government employer identification card with picture	

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a participant.

C-2. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions

also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The HACFM will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

HACFM Policy

HACFM will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

HACFM will only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

HACFM Policy

The HACFM will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

HACFM Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

HACFM Policy

The HACFM will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

HACFM Policy

The HACFM will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

HACFM Policy

The HACFM will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

HACFM Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the HACFM will not remove and destroy copies of documentation accepted as evidence of social security numbers.

C-3. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

HACFM Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACFM will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

C-4. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

HACFM Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

HACFM Policy

Certification by the head of household is normally sufficient verification. If HACFM has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

HACFM Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

HACFM Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if HACFM so requests.

Foster Children and Foster Adults

HACFM Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

C-5. VERIFICATION OF STUDENT STATUS

General Requirements

HACFM Policy

HACFM requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further their education.

The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

HACFM Policy

In accordance with the verification hierarchy described in section 7-1.B, HACFM will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in section 3-II.E.

The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from their parents (see below).

Independent Student

HACFM Policy

The PHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E)

C-6. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

HACFM Policy

~~For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by~~

If EIV information is unavailable, accept an SSA benefit verification letter dated within the appropriate benefit year, or obtain other acceptable verification under Chapter 7. Assist the family with obtaining the documentation when needed.

requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

HACFM Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

C-7. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

HACFM Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and

the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

C-8. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

HACFM Policy

The HACFM will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding and will verify this preference using the PHA's termination records.

The HACFM also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as described in Section 4-III.C. To verify that applicants qualify for the preference, and will follow documentation requirements outlined in Section 16-IX.D.

D. VERIFICATION OF INCOME

D-1. EARNED INCOME

Tips

HACFM Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

HACFM Policy

When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

For new hire letters, termination letters, or other employer-provided verification of employment, this must contain date of employment, compensation (including bonuses or commission), and schedule (hourly, weekly, annually, ect). This must be received via email, mail, or fax.

D-2. BUSINESS AND SELF EMPLOYMENT INCOME

The HACFM must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

HACFM Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not file tax returns, The PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The HACFM will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

D-3. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits [Notice PIH 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

D-4. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

HACFM Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

D-5. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

HACFM Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year

E. ASSETS AND INCOME FROM ASSETS

E-1. Net Family Assets [24 CFR 5.603]

~~At admission and reexam, for families with net assets totaling $50,000$54,898 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000$54,898 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non- necessary personal property does not exceed $50,000$54,898), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.~~

At admission, HACFM will obtain required third-party verification of net family assets. At reexamination, HACFM will accept a family's signed declaration of asset values and anticipated asset income when net family assets are at or below the HUD-adjusted self-certification ceiling ($54,898 for 2027), except in the required full-verification year or when information requires resolution. The declaration must identify included and excluded assets and asset income, including income from an excluded asset when that income is countable.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over ~~$50,000~~$54,898, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed ~~$50,000~~$54,898, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

HACFM Policy

~~For families with net assets totaling $50,000$54,898 or less, HACFM will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. HACFM reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.~~

HACFM will record each family's last full asset-verification date and the next due date. Full verification is due no later than the third annual reexamination after the last full verification (for example, full verification in 2027, self-certification in 2028 and 2029, and full verification again in 2030). A documented full-verification baseline

may be used if it satisfies applicable HUD requirements; otherwise establish a baseline at the first HOTMA review. The cycle is family-specific and does not restart merely because a calendar year changes or the family reports no assets. In the full-verification year, follow HUD's zero-asset procedures and document the result; do not treat the ordinary asset self-certification election as an exemption from that review.

At reexamination, HACFM accepts self-certification within the applicable annual HUD asset ceiling, subject to full third-party verification at least every three years. All adult family members must sign the declaration. Above that ceiling, obtain third-party verification at each applicable review; do not rely only on self-certification. HACFM may obtain further verification to resolve conflicting or unreliable information.

When verification is required, in determining the value of checking or savings accounts, HACFM will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, HACFM will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The HACFM will determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

HACFM Policy

Both at admission and reexam, the HACFM will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

E-2. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HACFM Policy

The HACFM will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The HACFM will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

E-3. NET INCOME FROM RENTAL PROPERTY

HACFM Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

E-4. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below ~~$50,000~~$54,898 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than ~~$50,000~~$54,898.

E-5. RETIREMENT ACCOUNTS

PHA Policy

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

E-6. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, For fully excluded income, the PHA is **not** required to document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

HACFM Policy

The HACFM will accept the family's self-certification as verification of fully excluded income. Additional documentation may be requested if necessary to document the income source.

The HACFM will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

H. OTHER VERIFICATIONS REGARDING INCOME

F-1. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

HACFM Policy

~~The HACFM will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.~~

HACFM may accept a signed zero-income self-certification at admission or reexamination without additional verification of the zero-income claim, as permitted by HUD. Continue mandatory EIV use and resolve conflicting information. Periodic reviews may assess how the family meets expenses, but nonmonetary in-kind donations are not assigned income value. A zero-income review is not automatically an interim reexamination.

The HACFM will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 11.

F-2. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

F-3. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

HACFM Policy

If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The PHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

G. VERIFYING MANDATORY DEDUCTIONS

G-1. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

G-2. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

HACFM Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- When income is projected at new admission or interim, the PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms if the family is unable to provide acceptable documentation.
- When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

HACFM Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

HACFM Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

G-3. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

HACFM Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

HACFM Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HACFM Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HACFM Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

G-4. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HACFM Policy

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HACFM Policy

Information to be Gathered

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HACFM Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

HACFM Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

H. STREAMLINED INCOME DETERMINATIONS

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

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

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

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

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

HACFM Policy

Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding.

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

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in group meetings**.** These briefings may be conducted in person or remotely based on PHA staff preference or reasonable accommodation. Families who attend group briefings and still have the need for individual assistance will be referred to a ~~**Intake**~~ Housing Specialist**.**

Briefings will be conducted in English. **Briefings will also be conducted in Spanish on an as needed basis.**

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

HACFM will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend **2** scheduled briefings, without prior notification and approval of HACFM, may be denied admission based on failure to supply information needed for certification. HACFM will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing,* p. 7]

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

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.

- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.
- The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."
- If the PHA is located in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
  An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers

C. FAMILY OBLIGATIONS

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

Electronic Communication

- Families must maintain current contact information, including a valid email address when available, monitor electronic communications from HACFM, and submit all required applications, interim

change requests, recertification documents, and supporting documentation using HACFM's designated electronic systems unless an alternate method has been approved as a reasonable accommodation. Failure to respond to electronic requests or submit required documentation within required timeframes may result in denial or termination of assistance in accordance with HUD regulations and this Administrative Plan

Time Frames for Reporting Changes Required by Family Obligations

HACFM Policy

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

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

Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

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

  HACFM Policy

  Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.
- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  HACFM Policy

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

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be construed as serious or repeated lease violations by the victim [see 24 CFR 5.2005(c)(1)].

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

  HACFM Policy

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

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

  HACFM Policy

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

  HACFM Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

  HACFM Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate

vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.

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

Assistance to Voucher Holders

Families who require additional assistance during their search may call HACFM to request assistance. Voucher holders will be notified at their briefing session that HACFM recommends the use of GoSection8.com for listing of available units and how the updated list may be obtained.

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

After the first 60 days of the search, the family is required to maintain a search record and report to HACFM every 15 days.

D. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

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

HACFM Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.

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

The HACFM may grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve.

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

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

HACFM Policy

HACFM will automatically approve one 30-day extension upon written request from the family.

Additional extensions are permissible at the discretion of HACFM up to a maximum of an additional 60 days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
- HACFM is satisfied that the family has made a reasonable effort to locate a unit throughout the initial 60-day period. A completed search record is not required.
- The family was prevented from finding a unit due to disability accessibility requirements or large size 3- & 4-bedroom unit requirement. The Search Record is not part of the required verification.
- If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, in accordance with part 8 of this title, to make the program accessible to a family member who is a person with disabilities, HACFM must extend the voucher term up to the term reasonably required for that purpose.
- If the vacancy rate for rental housing in the jurisdiction is less than 20%, extensions will be granted automatically on request up to a total of 120 days.
- HACFM extends in one or more increments. Unless approved by the Section 8 Director or higher, no more than 2 extensions of 30 days or less will be granted and never for a total of more than an additional sixty days.

HACFM will extend the term up to 120 days from the beginning of the initial term if the family needs and request an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. If the family needs an extension in excess of 120 days, HACFM will extend the voucher term for the amount of time reasonably required for said reasonable accommodation.

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

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

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

HACFM Policy

If an applicant family's voucher term or extension expires before the PHA has approved a tenancy, the PHA will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.

E. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOMEOR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas.

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

HACFM will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

F. ASSISTANCE TO FAMILIES WHO CLAIMDISCRIMINATION

The PHA will give participants a copy of HUD Form 903 to file a complaint.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24CFR 982.315]

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

- Which of the two new family units has custody of dependent children.
- Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.

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

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

H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER [24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by HACFM to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor, or
- HACFM has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. HACFM may allow for a temporary adult guardian to reside in the unit until a court-appointed guardian is established.

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

Chapter 9

GENERAL LEASING POLICIES

A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager or their rights and obligations under the Violence against Women Act (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner will be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(b)(4)].

HACFM Policy

The HACFM will not screen applicants for family behavior or suitability for tenancy.

The HACFM will not provide additional screening information to the owner.

B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted

tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

HACFM Policy

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, by email, or by fax.

The family may not submit, and the PHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the PHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the PHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the PHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the PHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

C. OWNER PARTICIPATION

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

D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

HACFM Policy

The HACFM does have eligible PHA-owned units available for leasing under the voucher program.

The HACFM will inform the family of this housing at the time of the briefing. The HACFM will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;

- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

NSPIRE Standards [Notice PIH 2023-28]

In order to be eligible, the dwelling unit must be in safe and habitable condition. This determination is made using HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. See Chapter 10 for a full discussion of the NSPIRE standards, as well as the process for inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable space requirements [24 CFR 5.703(d)(5)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 10 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

HACFM Policy

The HACFM does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

HACFM Policy

The HACFM will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

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. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

HACFM Policy

The HACFM will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

HACFM Policy

The HACFM permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The HACFM will review the dwelling lease for compliance with all applicable requirements.

HACFM Policy

If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

HACFM Policy

The HACFM will not review the owner's lease for compliance with state/local law.

F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets NSPIRE standards; the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

HACFM Policy

The HACFM will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the PHA, the PHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections over the phone.

If the PHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the PHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

HACFM Policy

Owners who have not previously participated in the HCV program are not required to attend a briefing.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The PHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the PHA will execute the HAP contract. The PHA will not execute the HAP contract until the owner has submitted IRS form W-9. The PHA will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

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

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

HACFM Policy

Where the owner is requesting a rent increase, the HACFM will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the PHA of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)
[24 CFR 982.401]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance meet HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than October 1, 2024. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2023-28].

All units must pass an NSPIRE inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months (or 36 months for small rural PHAs) during the term of the HAP contract, and at other times as needed, to determine that the unit meets NSPIRE standards. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

Provided they meet certain requirements, HUD permits PHAs to establish some additional local requirements in their administrative plans. The use of the term *NSPIRE* in this plan refers to the combination of both HUD and PHA-established requirements. However, state and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

This chapter explains HUD and PHA requirements related to physical inspections and rent reasonableness as follows:

Part I. Physical Standards. This part discusses NSPIRE standards required of units occupied by HCV and PBV-assisted families. It also identifies affirmative habitability requirements for all units and life-threatening conditions that must be corrected in 24 hours.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE standards.

PART ONE: PHYSICAL STANDARDS

10-I.A. INSPECTABLE AREAS [24 CFR 5.703(a)(1) and 24 CFR 5.705(a)(2)]

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

10-I.B. AFFIRMATIVE HABITABILITY REQUIREMENTS [24 CFR 5.703(b), (c), and (d)]

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e).

The NSPIRE Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, sealed batteries *will* be required.

10-I.C. MODIFICATIONS TO PROVIDE ACCESSIBILITY [24 CFR 100.203; Notice 2003-31; and Notice PIH 2014-02]

Under the Fair Housing Act of 1988 an owner must make reasonable accommodations in rules, policies, practices, or services if necessary for a person with disabilities to use the housing and must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit if such modification is necessary to afford the person with a disability full enjoyment of the premises. Such modifications are at the family's expense. The owner may, where it is reasonable to do so, require restoration of the unit to its original condition (reasonable wear and tear excepted) if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest- bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

HACFM Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

10-I.D. ADDITIONAL LOCAL REQUIREMENTS [24 CFR 5.705(a)(3) and Notice PIH 2023-28]

The PHA may impose variations to the NSPIRE standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to NSPIRE standards and approved variations must be added to the administrative plan.

HUD may approve inspection criteria variations if the variations apply standards in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions. Acceptability criteria variations may only be approved by HUD if such variations either meet or exceed the performance requirements or significantly expand affordable housing opportunities for families assisted under the program.

HACFM Policy

The HACFM has not requested any HUD-approved variations to NSPIRE standards.

10-I.E. LIFE-THREATENING DEFICIENCIES [Notice PIH 2023-28]

The NSPIRE standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under NSPIRE:

Inspectable Item	Deficiency
Call-for-Aid System	System is blocked, or pull cord is higher than 6 inches off the floor.
	System does not function properly
Carbon Monoxide Alarm	Carbon monoxide alarm is missing, not installed, or not installed in a proper location.
	Carbon monoxide alarm is obstructed.
	Carbon monoxide alarm does not produce an audio or visual alarm when tested.
Chimney	A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior.
	Chimney exhibits signs of structural failure.
Clothes Dryer Exhaust Ventilation	Electric dryer transition duct is detached or missing.
	Gas dryer transition duct is detached or missing.
	Electric dryer exhaust ventilation system has restricted airflow.
	Dryer transition duct is constructed of unsuitable material.
	Gas dryer exhaust ventilation system has restricted airflow.
Dorr – Entry	Entry door is missing.
Door – Fire Labeled	Fire labeled door is missing.
Egress	Obstructed means of egress.
	Sleeping room is located on the third floor or below and has an obstructed rescue opening.
	Fire escape is obstructed.
Electrical – Conductor, Outlet, and Switch	Outlet or switch is damaged.
	Exposed electrical conductor.
	Water is currently in contact with an electrical conductor.

Inspectable Item	Deficiency
Electrical – Service Panel	The overcurrent protection device is damaged.
Exit Sign	Exit sign is damaged, missing, obstructed, or not adequately illuminated.
Fire Escape	Fire extinguisher is damaged or missing.
Fire Extinguisher	Fire extinguisher pressure gauge reads over or under-charged.
	Fire extinguisher service tag is missing, illegible, or expired.
	Fire extinguisher is damaged or missing.
Flammable and Combustible Items	Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater; OR Improperly stored chemicals.
Guardrail	Guardrail is missing or not installed.
	Guardrail is not functionally adequate.
Heating, Ventilation, and Air Conditioning (HVAC)	The inspection date is on or between October 1 and March 31 and the permanently installed heating source is not working or the permanently installed heating source is working and the interior temperature is below 64 degrees Fahrenheit.
	Unvented space heater that burns gas, oil, or kerosene is present.
	Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance.
	Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.
Leak – Gas or Oil	Natural gas, propane, or oil leak.
Mold-like Substance	Presence of mold-like substance at extremely high levels is observed visually.
Smoke Alarm	Smoke alarm is not installed where required.
	Smoke alarm is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.

Inspectable Item	Deficiency
Sprinkler Assembly	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
	Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.
	Sprinkler assembly has evidence of corrosion.
	Sprinkler assembly has evidence of foreign material that is detrimental to performance.
Structural System	Structural system exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
	Gas shutoff valve is damaged, missing, or not installed.

HACFM Policy

In addition to those listed under the NSPIRE standards, the following are considered life-threatening conditions:

- Utilities not in service, including no running hot water.
- Air conditioning system inoperable or not in service.

10-I.F. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 10-II.H.

HACFM Policy

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

Owner Responsibilities

The owner must maintain the unit in accordance with NSPIRE regulations and standards. The owner is not responsible for a breach of the NSPIRE that is not caused by the owner, and for which the family is responsible (as provided in 24 CFR 982.404(b) and 982.551(c)).

HACFM Policy

The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions

constitute a serious or repeated lease violation, the owner may take legal action to evict the family.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the NSPIRE standards in accordance with HUD requirements. See 10-II-G.

10-I.G. LEAD-BASED PAINT

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

Special Requirements for Children with Elevated Blood Lead Level [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a 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 six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation 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 [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of NSPIRE and the PHA will take action in accordance with Section 10-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

10-I.H. VIOLATION OF SPACE STANDARDS [24 CFR 5.703(d)(5)]

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a *habitable room* as a room in a building for

living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23].

A unit that does not meet these space standards is defined as *overcrowded*.

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART TWO: THE INPSECTION PROCESS

10-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *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.
- *Annual/Biennial Inspections*. HUD requires the PHA to inspect each unit under lease at least annually or biennially (or triennially for small rural PHAs as defined in 24 CFR 982.305(b)(2)), depending on PHA policy, to confirm that the unit still meets NSPIRE standards.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the NSPIRE standards.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all NSPIRE inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A *PHA-owned unit* is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

For information on the inspection of PHA-owned units in the PBV program, see Chapters 17 and 18.

Inspection Costs [Notice PIH 2016-05; 24 CFR 5.705(d)]

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(e)].

In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

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. However, the PHA may charge a reasonable fee to owners for re-inspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

HACFM Policy

The HACFM will not charge a fee for failed re-inspections.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform NSPIRE inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates NSPIRE standards, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

HACFM Policy

The HACFM may conduct any inspection using RVI for properties located outside of the jurisdiction it operates. These will be handled on a case-by-case basis in cooperation with the third-party inspection company.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

HACFM Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

HACFM Policy

When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

10-II.B. INITIAL INSPECTION

Approving Units [FR Notice 1/18/17; Notice PIH 2017-20; and 24 CFR 982.406]

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet NSPIRE standards before the PHA approves assisted tenancy. However, while the PHA is required to conduct an inspection prior to approving assisted tenancy, PHAs have two options for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. The PHA may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified.
- Passed an alternative inspection in the last 24 months.

Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

HACFM Policy

The unit must pass the initial inspection on or before the effective date of the HAP contract.

The PHA will not rely on alternative inspections and will conduct an initial inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections [24 CFR 982.395(b)(2)(i)]

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies NSPIRE standards, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection.

HACFM Policy

The PHA will complete the initial inspection, determine whether the unit satisfies NSPIRE standards, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

For new units proposed for the HCV program, life-threatening deficiencies must be resolved before the HAP contract is executed and the family moves into the unit.

HACFM Policy

If any deficiencies are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will reinspect the unit within five business days of the date the owner notifies the PHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if they are unable to locate another suitable unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

HACFM Policy

Utility service must be available for testing at the time of the initial inspection.

Appliances

HACFM Policy

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other NSPIRE requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

10-II.C. ANNUAL/BIENNIAL INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

HUD requires the PHA to inspect each unit under HAP contract at least biennially to confirm that the unit still meets NSPIRE standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

HACFM Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full inspection. The PHA reserves the right to require annual inspections of any unit or owner at any time.

The HACFM will not rely on alternative inspection standards.

Scheduling the Inspection

HACFM Policy

If an adult cannot be present on the scheduled date, the family should request that the HACFM reschedule the inspection. The HACFM and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. The HACFM may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HACFM will automatically schedule a second inspection. If the family misses two scheduled inspections without HACFM approval, the HACFM will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

10-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant family or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

HACFM Policy

During a special inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual/biennial inspection.

10-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the NSPIRE standards.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

10-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Correction Timeframes

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies deficiencies, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

HACFM Policy

When life-threatening deficiencies are identified, the HACFM will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are severe or moderate are identified, the PHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction. If low deficiencies are identified, these deficiencies will only be noted for informational purposes.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 10-II.G.).

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).

Extensions

For life-threatening deficiencies, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are severe or moderate, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate.

HACFM Policy

Extensions will be granted in cases where the HACFM has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspections

HACFM Policy

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA will send a notice of abatement to the owner, or in the case of family-caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

The PHA will not accept self-certification of repairs. Photos or other documentation of repairs will not be accepted in lieu of a reinspection.

10-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with NSPIRE standards, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of deficiencies that are the family's responsibility.

HACFM Policy

The HACFM will make all HAP abatements effective the first of the month following the expiration of the PHA specified correction period (including any extension).

The HACFM will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

HACFM Policy

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

10-II.H. ENFORCING FAMILY COMPLIANCE [24 CFR 982.404(b)]

Families are responsible for correcting any deficiencies listed in paragraph 10-I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS
[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the "merger date". These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

In accordance with the regulations, effective 10/1/99, for those Section 8 participant families where there is a HAP contract in effect entered into prior to October 1, 1999, the HACFM will:

- Continue to uphold the rent calculation methods of the pre-merger certificate (regular) tenancies until the 2nd regular reexamination of family income and composition following the "merger date."

- Utilize the Housing Choice Voucher rent calculation methods described at 24 CFR 982.502 and 982.505 for pre-merger voucher [and OFTO] tenancies.

However, all new leases, moves and new admissions taking effect on or after October 1, 1999, will be subject to the regulations of the new Housing Choice Voucher Program.

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

This chapter explains the HACFM's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

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

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

During the initial term of the lease, the owner may not raise the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed, the HACFM begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made manually to the HAP Register for the following month. Payments are disbursed by the Housing Authority of the City of Fort Myers to the owner each month via ACH. No checks may be issued or picked up by owner at the HACFM. Payments will only be disbursed on the first day of the month and 15th of the month or after HUD funds were received. Exceptions may be made with the approval of HCV Director or higher in cases of hardship.

Returned ACH payments will not be replaced until a written request has been received from the payee and updated banking information was provided

Excess Payments

The total of rent paid by the tenant plus the HACFM housing assistance payment to the owner may not be more than the contract rent to owner. The owner must immediately return any excess payment to the HACFM.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the HACFM" chapter of this Administrative Plan.

Late Payments to Owners

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

Therefore, in keeping with generally accepted practices in the local housing market, the HACFM must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

Proof of "Mailed to" date will be the:

- *date indicated on the HAP Register and the date on the copy of the check Proof of "Received by Owner" will be:
- if no complaint of not receiving the check within 14 days and the check has cleared the HACFM's account.

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

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

as its only source for late payment penalty.

The HACFM will not use any program funds for the payment of late fee penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

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

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

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

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HACFM information on rents charged by the owner for other units in the premises or elsewhere. The HACFM will only request information on the owner's units elsewhere if the HACFM has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparable.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources

The market areas for rent reasonableness are **zip codes, subdivisions, and neighborhood w**ithin the HACFM's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

How Comparability is Established

The following items will be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of unit
- Unit Type
- Maintenance
- Utilities

Rent Reasonableness Methodology

The HACFM utilizes an independent electronic rent reasonableness system through, which includes and defines the HUD factors listed above. The system has a total point count which is divided into rating categories.

Information is gathered on rental units in the Housing Authority of the City of Fort Myers Agency market area, and each unit is rated, using the HACFM's rent reasonableness system. The HACFM also relies on the Internet and various websites to gather rental market studies. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

The system uses an "appraisal" method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparable. Each of the HUD factors is given a point value.

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR)

projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

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

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

The HACFM will establish a single voucher payment standard amount for each FMR area in the HACFM jurisdiction. For each FMR area, the HACFM will establish payment standard amounts for each "unit size". The HACFM may have a higher payment standard within the HACFM's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The HACFM may approve a higher payment standard (up to 120% of the payment standard) within the basic range, if required as reasonable accommodation for a family that includes a person with disabilities.

As a result of the Housing Authority of the City of Fort Myers being awarded HUD-VASH Vouchers, it must now assist homeless veterans in jurisdictions outside of Lee County. For purposes of establishing payment standards outside of Lee County, the HACFM has set the Payment Standards between 90 -110% of the FMR for all bedroom sizes for the counties listed below:

- **Highlands County**
- **Glades County**
- **Hendry County**
- **Okeechobee County**

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

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

Assisted Families' Rent Burdens

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

If it is determined that particular unit sizes in the HACFM's jurisdiction have payment standard amounts that are creating rent burdens for families, the HACFM will modify its payment standards for those particular unit sizes.

The HACFM will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the HACFM's jurisdiction are paying.

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

Quality of Units Selected

The HACFM will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

HACFM Decision Point

The HACFM will review the average percent of income of families on the program. If more than 25% of families are paying more than 30% of monthly adjusted income, the HACFM will determine whether there is a difference by voucher size, whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's NSPIRE, and any additional standards added by the HACFM in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the HACFM may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the HACFM will continue increasing the payment standard.

Rent to Owner Increases

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

Time to Locate Housing

The HACFM may consider the average time period for families to lease up under the Voucher program. If more than **25%** of Voucher holders are unable to locate suitable housing within the term of the voucher and the HACFM determines that this is due to **30%** of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Lowering of the Payment Standard

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

Financial Feasibility

Before increasing the Payment Standard, the HACFM may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the HACFM will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by the HACFM for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

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

In addition, the HACFM has the discretion to establish exception payment standards up to 120% of the payment standard due to having a success rate of voucher issuance to leased below 75% during the most recent 12 months.

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM

[(24CFR 982.308(g)]

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

Chapter 12

REEXAMINATIONS

INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

- Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
- Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
- Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

12-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

12-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

HACFM Policy

HACFM will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, HACFM will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, HACFM will perform a new annual reexamination.

HACFM also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

HACFM Policy

All Annual Recertifications will be completed electronically with the exception of Reasonable Accommodation for disability.

An advocate, interpreter, or other assistant may assist the family in the recertifiation process. The family and HACFM must execute a certification attesting to the role and assistance of any such third party.

12-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HACFM Policy

Families will be asked to submit all required information (as described in the reexamination notice) to the reexamination portal. The required information will include a HACFM-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to NSPIRE, HACFM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACFM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

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12-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS

[24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

HACFM Policy

During the annual reexamination process, HACFM will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II. E and 7-II. E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), HACFM will process a reexamination in accordance with the policies in this chapter.

12-I.E. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

HACFM Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If HACFM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACFM, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If HACFM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACFM.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by HACFM by the date specified, and this delay prevents HACFM from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

12-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

All interim change requests and supporting documentation must be submitted electronically through HACFM's designated electronic submission process unless an alternate method has been approved as a reasonable accommodation.

12-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

HACFM Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 calendar days of the change.

~~HACFM will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.~~

HACFM will apply a zero-percent threshold and conduct an interim when a household member is added or removed, including family members, foster adults, foster children, and live-in aides, whether adjusted income increases, decreases, or does not change. If the change produces an increase in adjusted income during the final three months of the certification period, HACFM's written final-three-month exception applies and the composition change will be included at the next annual. Changes producing a decrease or no income change are not covered by that exception. An otherwise excluded earned-income increase is not counted solely because a composition interim is required.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACFM approval. However, the family is required to promptly notify HACFM of the addition [24 CFR 982.551(h)(2)].

HACFM Policy

The family must inform the PHA of the birth, adoption or court-awarded custody of a child

within ~~10 business days~~10 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or another household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of NSPIRE (NSPIRE) space standards, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

HACFM Policy

Families must request HACFM approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HACFM prior to the individual moving in the unit.

HACFM will not approve the addition of a new family or household member unless the individual meets HACFM's eligibility criteria.

HACFM will not approve the addition of a foster child or foster adult if it will cause a violation of NSPIRE space standards.

If HACFM determines an individual meets HACFM's eligibility criteria as defined in this Administrative Plan, HACFM will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to NSPIRE standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If HACFM determines that an individual does not meet HACFM's eligibility criteria, HACFM will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

HACFM will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

HACFM Policy

If a household member ceases to reside in the unit, the family must inform HACFM within ~~10 business days~~10 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HACFM within ~~10 business days~~10 calendar days.

12 II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

HACFM Policy

HACFM will conduct interim reexaminations in each of the following instances:

~~If the family has reported zero income, HACFM will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.~~

HACFM will review zero-income households every three months. Conduct an interim only when a change meets this Plan's interim requirements; do not create an income interim solely because a periodic zero-income review is due.

~~If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income), HACFM will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.~~

Seasonal or variable income will be calculated under Section 6-I.C. A scheduled review of seasonal income is not automatically an interim; apply the adjusted-income thresholds, earned-income rules, and required household-composition rules before processing an interim.

HACFM may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Interim Increases

HACFM Policy

~~The HACFM will not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.~~

HACFM will conduct an interim when countable changes cumulatively increase annual adjusted income by 10 percent or more, except for the final-three-month policy and the mandatory zero-percent household-composition rule. Evaluate annual adjusted income after deductions, rather than gross income alone. Document smaller reported changes and assess their cumulative effect.

~~The HACFM will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date.~~

HACFM will not conduct an interim for an increase in annual adjusted income during the final three months before the annual effective date. Apply this exception to qualifying composition-related increases as provided in Notice PIH 2023-27, Revision 3, Attachment I.3; incorporate the change at the next annual.

HACFM will exclude earned-income increases when determining whether an interim increase is required and when calculating an interim increase, unless the family has received an interim reduction during the same reexamination cycle. HACFM elects to consider earned-income increases after such a reduction. In that circumstance, process an increase only if the combined countable change meets the 10-percent adjusted-income

increase threshold, subject to the final-three-month exception.

When a family simultaneously reports a qualifying decrease and an earned-income increase, evaluate whether each independently triggers an interim under the applicable thresholds. HACFM will process the decrease and any qualifying increase as separate transactions with the effective dates required by Attachment I.8. Do not offset a required decrease with an earned-income increase that is not eligible to be counted or does not independently qualify. Document the calculations and notices.

Commented [4]: POLICY ELECTION FOR REVIEW: This draft counts earned-income increases after a prior interim reduction in the same cycle, subject to the 10% increase threshold. Simultaneously reported changes use separate transactions and effective dates. Confirm this choice before adoption.

Family-Initiated Interim Reexaminations [24 CFR 982.516(b)(2)].

Required Reporting

HACFM Policy

Families must report changes in income, assets, deductions, and household composition within 10 calendar days of the change. Reporting does not mean an interim will always be conducted; HACFM determines whether the change meets the applicable rules. Families must report all current circumstances at the next annual even if no interim was required. Documents requested by HACFM are due within 10 calendar days, subject to approved good cause or reasonable accommodation.

Optional Reporting

~~The family may request an interim reexamination any time the family has experienced a decrease in circumstances since the last determination [24 CFR 982.516(b)(2)]. HACFM will process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].~~

The family may request an interim for a decrease in annual adjusted income, including a decrease caused by additional allowable deductions. HACFM retains its policy of processing any actual decrease and adopts a zero-percent decrease threshold. Thus requested decreases below 10 percent are also processed, subject to required verification and applicable welfare-sanction rules.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

HACFM Policy

~~If a family reports a change that was not required to report and that would result in an increase in the family share of the rent, HACFM will note the information in the tenant file, but will not conduct an interim reexamination unless it is an active FSS participant that wants the interim completed.~~

HACFM will document all reported changes and apply the mandatory thresholds, earned-income exclusions, and final-three-month exception. A family's FSS participation or request for escrow credit does not permit an interim income increase that HOTMA otherwise prohibits. FSS calculations must follow applicable FSS rules and the properly determined income examination.

~~If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, HACFM will conduct an interim reexamination. See Section 11-II.D. for effective dates.~~

HACFM will conduct requested interims for decreases under its zero-percent decrease policy. Effective dates are governed by Section 12-II.D, including the distinction between timely and late reporting.

Families may report changes in income or expenses at any time.

Safe Harbor Income Determinations [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

~~The HACFM not to use Safe Harbor Income Determinations.~~

HACFM elects not to use Safe Harbor income determinations from other means-tested programs at admission or reexamination. Staff will use the verification hierarchy and calculation methods in Chapters 6 and 7.

12-II.D. PROCESSING THE INTERIM REEXAMINATION

Non-interim transactions will be used when required by HUD to add, end, or update hardship relief, update proration or citizenship status, process contract-rent changes, or update payment standards without a qualifying income interim. Do not recalculate unrelated income merely because a non-interim transaction is needed. Use the correct HUD-50058 action and reporting instructions.

Method of Reporting

HACFM Policy

The family must notify HACFM of changes via email, in writing, or via online web-portal and provide requested documentation.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if HACFM determines that an interview is warranted, the family may be required to attend.

~~Based on the type of change reported, HACFM will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 calendar days of receiving a request from HACFM. This time frame may be extended for good cause with HACFM approval. HACFM will accept required documentation by mail, fax, or in person. HACFM must complete the changes within 30 calendar days of receipt.~~

HACFM will identify and request only documentation needed for the applicable change. Families must provide requested information within 10 calendar days, with extensions for good cause or reasonable accommodation. Submit electronically through the designated process unless an alternate method is approved. HACFM will generally complete an interim within 30 days after becoming aware of the change and document any necessary verification delay. A processing delay does not change a timely reported decrease's required effective date.

Effective Dates

[24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

HACFM Policy

If the family share of the rent is to *increase*:

~~The increase generally will be effective on the first of the month following 30 days' notice to the family.~~

For a timely reported change, a rent increase is effective on the first day of the month beginning after the end of at least 30 days' advance written notice to the family. Do not backdate a timely reported increase because HACFM processed it late.

~~If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies and procedures.~~

If the family fails to report a required change timely, a resulting rent increase is effective retroactively to the first day of the month following the actual change, subject to HUD's applicable exceptions. Explain the recalculation and any overpaid assistance to the family and owner, provide required notice and hearing rights, and apply the repayment policy where appropriate.

If the family share of the rent is to *decrease*:

~~The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.~~

For a timely reported change, a rent decrease is effective on the first day of the month after the actual change that caused the decrease, including a retroactive adjustment when verification or processing occurs later. For a late-reported decrease, HACFM will implement the decrease no later than the first rent period following completion of the reexamination. Staff will consider reasonable accommodation and whether circumstances outside the family's control affected reporting. Notify the family and owner of the amount, effective date, and any credit or adjustment.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

12-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

12-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

HACFM Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

12-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)].

HACFM Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

12-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies.

Chapter 13

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

13-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" [Pub. L. 109-162]

The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

HACFM Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HACFM a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the HACFM a copy of any owner eviction notice [24 CFR 982.551(g)].
- The HACFM has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The HACFM determines that the family's current unit does not meet the NSPIRE space standards because of an increase in family size or a change in family composition. In such cases, the HACFM must issue the family a new voucher, and the family and HACFM must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACFM must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACFM gives notice to the owner. [24 CFR 982.403(a) and (c)]

13-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

HACFM Policy

The HACFM will deny a family permission to move on grounds that the HACFM does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HACFM; (b) the HACFM can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HACFM can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the HACFM's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The PHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub. L. 109-162]

HACFM Policy

If the HACFM has grounds for denying or terminating a family's assistance, the HACFM will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.
Refer to sections 3-III.G and 12-II. E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

HACFM Policy

The HACFM will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACFM's jurisdiction or outside it under portability.

The HACFM will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the HACFM's jurisdiction.

The HACFM will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the HACFM will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

13-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

HACFM Policy

Upon receipt of a family's notification that it wishes to move, the HACFM will determine whether the move is approvable in accordance with the regulations and policies set forth above. The HACFM will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

HACFM Policy

For families approved to move to a new unit within the HACFM's jurisdiction, the HACFM will perform a new annual reexamination in accordance with the policies set forth in Chapter 12 of this plan.

For families moving into or families approved to move out of the HACFM's jurisdiction under portability, the HACFM will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HACFM Policy

For families approved to move to a new unit within the HACFM's jurisdiction, the HACFM will issue a new voucher within 10 business days of the HACFM's written approval to move. No briefing is required for these families. The HACFM will follow the policies set forth in Chapter 8 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACFM approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HACFM's jurisdiction under portability, the HACFM will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

13-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA.** The second is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 13-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 13-II.C when it is acting as the receiving PHA for a family.

13-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

HACFM Policy

In determining whether or not to deny an applicant family permission to move under portability because the HACFM lacks sufficient funding or has grounds for denying assistance to the family, the initial HACFM will follow the policies established in section 13-I. B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

HACFM Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the HACFM's jurisdiction at the time the family's application for assistance was submitted, the family must live in the HACFM's jurisdiction with voucher assistance for at least 12 months before requesting portability.

HACFM will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 1). However, any exception to this policy is subject to the approval of the receiving HACFM [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

HACFM Policy

The HACFM will determine whether a participant family may move out of the HACFM's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 13-I.A and 13-I.B of this chapter. The HACFM will notify the family of its determination in accordance with the approval policy set forth in section 13-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

HACFM Policy

For a participant family approved to move out of its jurisdiction under portability, the HACFM generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACFM will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 8 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

HACFM Policy

No formal briefing will be required for a participant family wishing to move outside the HACFM's jurisdiction under portability. However, the HACFM will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 8). The HACFM will provide the name, address, and phone of the contact for the HACFM in the jurisdiction to which they wish to move. The HACFM will advise the family that they will be under the RHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 8. A new voucher is not required for portability purposes.

HACFM Policy

For families approved to move under portability, the HACFM will issue a new voucher within 10 business days of the HACFM's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

HACFM Policy

The HACFM will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the HACFM's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 8 of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

HACFM Policy

Because the portability process is time-sensitive, the HACFM will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

HACFM Policy

In addition to these documents, the HACFM will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in a family self-sufficiency (FSS) program
- The HACFM will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

HACFM Policy

If the HACFM has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the PHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HACFM will send the receiving PHA a written confirmation of its decision by mail.

The HACFM will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e),]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

HACFM Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1),]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

HACFM Policy

If the PHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 13-I. B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the PHA's jurisdiction.

The PHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 15, respectively.)

13-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

HACFM Policy

Within 10 business days after a portable family requests assistance, the receiving PHA will notify the HACFM whether it intends to bill the HACFM on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

HACFM Policy

The HACFM will not require the family to attend a briefing. The HACFM will provide the family with a briefing packet (as described in Chapter 8) and, in an individual briefing, will orally inform the family about the HACFM's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The HACFM will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

HACFM Policy

For any family moving into its jurisdiction under portability, the HACFM will conduct a new reexamination of family income and composition. However, the HACFM will not delay issuing the family a voucher for this reason. Nor will the HACFM delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the HACFM cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HACFM will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

HACFM Policy

When a family ports into its jurisdiction, the HACFM will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The HACFM will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

HACFM Policy

The receiving PHA's voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

HACFM Policy

The HACFM generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACFM plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in chapter 8.

The HACFM will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 1).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

HACFM Policy

The HACFM will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination

The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

HACFM Policy

The HACFM will send a copy of the updated HUD-50058 by regular mail at the same time the PHA and owner are notified of the reexamination results.

Change in Billing Amount

The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount ofreimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

HACFM Policy

If the HACFM elects to deny or terminate assistance for a portable family, the HACFM will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The HACFM will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 15, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the HACFM with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

HACFM Policy

If the HACFM decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACFM will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HACFM decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 14

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

- Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA's HCV program and highlights key owner rights and responsibilities.
- Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA, and the owner as expressed in the HAP contract.

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

PART I. OWNERS IN THE HCV PROGRAM

14-I.A. OWNER RECRUITMENT AND RETENTION

Recruitment

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

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

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

HACFM Policy

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

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings each month
- Participating in community-based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

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

HACFM Policy

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

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

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

- Providing the owner with a designated PHA contact person.
- Coordinating inspection and leasing activities between the PHA, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates through a landlord handbook, including answers to frequently asked questions.
- Contacting owners via emails or texts to disseminate information.

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

14-I.B. BASIC HCV PROGRAM REQUIREMENTS

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

HACFM Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACFM. The HACFM will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

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

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

- Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the National Standards for the Physical Inspection of Real Estate (NSPIRE), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract

- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Act (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family [see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); 24 CFR 982.452(b)(1); and FR Notice 1/4/23]

14-I.D. OWNER QUALIFICATIONS

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

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

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

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

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

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

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

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

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

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

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

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

HACFM Policy

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

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

HUD regulations permit the PHA, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

HACFM Policy

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

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the NSPIRE for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the HACFM, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

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

Legal Ownership of Unit

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

HACFM Policy

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

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

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

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

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

PART II. HAP CONTRACTS

14-II.A. OVERVIEW

The HAP contract represents a written agreement between the HACFM and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

14-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

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

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. HACFM Policy on the amount of security deposit an owner may collect is found in Chapter 9.

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

HACFM Policy

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

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

14-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items

customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

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

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By accepting the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with NSPIRE standards; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

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

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

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

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

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

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

HACFM Policy

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

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

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

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

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

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

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

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

The HACFM must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

HACFM Policy

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

If relevant, the HACFM will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HACFM will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

14-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

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

HACFM Policy

The HACFM may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8;
- The unit does not meet NSPIRE standards [24 CFR 982.404] – see Chapter 8;
- The family breaks up [HUD Form 52641] – see Chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 14-II.D.

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

HACFM Policy

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACFM gives written notice to the owner.

The HACFM cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the HACFM any housing assistance payment received after this period.

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

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

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

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

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

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

HACFM Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 14-I.D. of this chapter.

The HACFM must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

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

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

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.

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

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary

residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

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

HACFM Policy

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

The HACFM will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

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

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

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

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

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

Chapter 15

TERMINATION OR DENIAL OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate or deny a family's assistance and the ways in which such terminations and denials must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations or denial of assistance and termination of tenancy by the owner. It is presented in three parts:

- Part I: Grounds for Termination or denial of Assistance. This part discusses various reasons that a family's assistance may be terminated or denied, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination or denial by the HACFM based on the family's behavior.
- Part II: Approach to Termination or denial of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HACFM may consider in lieu of termination or denial, the criteria the HACFM must use when deciding what action to take, and the steps the HACFM must take when terminating or denying a family's assistance.
- Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OR DENIAL OF ASSISTANCE

15-I.A. OVERVIEW

HUD requires the HACFM to terminate or deny assistance for certain offenses and when the family no longer requires assistance. HUD permits the HACFM to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HACFM.

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

HACFM Policy

As a family's income increases, the amount of HACFM's subsidy goes down. If the amount of HCV assistance provided by HACFM drops to zero and remains at zero for 180 consecutive calendar days, the family's assistance terminates automatically.

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

15-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the HACFM terminate the family's assistance at any time.

HACFM Policy

The request to terminate assistance must be made in writing and signed by the head of household, spouse, or co-head

15-I.D. MANDATORY TERMINATION OF ASSISTANCE

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

Eviction [24 CFR 982.552(b)(2)]

The HACFM must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

HACFM Policy

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

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, HACFM will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance.

Serious and repeated lease violations will include, but are not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

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

The HACFM must terminate or deny assistance if any family member fails to sign and submit any consent form, they are required to sign for an initial application or reexamination.

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

HACFM must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the HACFM, has knowingly permitted another individual who is not eligible for assistance to reside in the unit. For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

HACFM must terminate or deny assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

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

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

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, HACFM must then terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

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

15-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS AND DENIALS

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

HACFM has established policies that permit HACFM to terminate or deny assistance if HACFM determines that:

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

Use of Illegal Drugs and Alcohol Abuse

HACFM Policy

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

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

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

HACFM will deny assistance for any drug activity or abuse of alcohol within the past 5 years

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

In making its decision to terminate or deny assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate or deny assistance.

Drug and Violent Criminal Activity [24 CFR 5.100]

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

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

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

HACFM Policy

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

HACFM will consider all credible evidence and the preponderance of evidence, that the household member has engaged in, regardless of whether the household member has been arrested or convicted for such activity. The evident may or may not include record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

HACFM will deny assistance for any drug activity or violent criminal activity within the past 5 years.

In making its decision to terminate assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination or Denial of Assistance [24 CFR 982.552(c)]

HUD permits the HACFM to terminate or deny assistance under a number of other circumstances. It is left to the discretion of the HACFM whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits HACFMs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

HACFM Policy

HACFM **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program, HACFM will terminate the family from the FSS program.

The HACFM **will** terminate or deny a family's assistance if:

- The family has failed to comply with any family obligations under the program.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family in the last five years.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the HACFM or any other PHA.
- A family member has engaged in or threatened violent or abusive behavior toward HACFM personnel.
    - Abusive or violent behavior towards HACFM personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

In making its decision to terminate assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

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

HACFM Policy

HACFM will consider a family absent from the unit for more than 30 consecutive days without PHA approval or reasonable accommodation (such as hospitalization or rehabilitation) vacant and the family's assistance will be terminated.

If the family is absent from the unit for more than 180 consecutive calendar days for any circumstances, the family's assistance must be terminated. Notice of termination will be sent to the family.

Insufficient Funding [24 CFR 982.454]

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

HACFM Policy

HACFM will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Chapter 21. If HACFM determines there is a shortage of funding, prior to terminating any HAP contracts, HACFM will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, HACFM will terminate HAP contracts as a last resort.

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

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

Refer to Chapter 22 - Cost Saving Options

PART II: APPROACH TO TERMINATION OR DENIAL OF ASSISTANCE

15-II.A. OVERVIEW

The HACFM is required by regulation to terminate or deny a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the HACFM the discretion to either terminate or deny the family's assistance or to take another action. This part

discusses the various actions the HACFM may choose to take when it has discretion and outlines the criteria the HACFM will use to make its decision about whether or not to terminate or deny assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

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

The way in which the HACFM terminates or denies assistance depends upon individual circumstances. HUD permits HACFM to terminate or deny assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.
- Deny listing on HACFM waitlist.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP Contract or approve a lease.

15-II.C. ALTERNATIVES TO TERMINATION DENYING OF ASSISTANCE

Change in Household Composition

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

HACFM Policy

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

Repayment of Family Debts

HACFM Policy

If a family owes amounts to the HACFM, as a condition of continued assistance, HACFM will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from HACFM of the amount owed.

HACFM will deny assistance if an applicant currently owes money to any federally funded housing program or PHA unless the debt is paid in full within ten days of notification to the applicant.

15-II.D. CRITERIA FOR DECIDING TO TERMINATE OR DENY ASSISTANCE

Evidence

For criminal activity, HUD permits the HACFM to terminate or deny assistance if a preponderance of the evidence indicates that a household member has engaged in the activity,

regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

HACFM Policy

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

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

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

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

HACFM Policy

HACFM will consider the following factors when making its decision to terminate or deny assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The HACFM will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

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

HACFM Policy

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

15-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives HACFMs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the HACFM to terminate the assistance of any participant if the HACFM "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

Victim Documentation

HACFM Policy

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, HACFM will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

- A police or court record documenting the actual or threatened abuse, or
- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the

actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification and supporting documentation must be submitted to HACFM within 14 business days after HACFM issues their written request. The 14-day deadline may be extended at HACFM's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, HACFM may proceed with assistance termination.

If HACFM can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, HACFM will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the HACFM the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the HACFM chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance.

HACFM Policy

When the actions of a participant or other family member result in HACFM's decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, HACFM will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, HACFM will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, HACFM will proceed with termination of the family's assistance.

If HACFM can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, HACFM will bypass the standard process and proceed with the immediate termination of the family's assistance.

HACFM Confidentiality Requirements

All information provided to HACFM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related

entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

15-II.F. TERMINATION OR DENIAL NOTICE

If a family's assistance is to be terminated or denied, whether voluntarily or involuntarily, the HACFM must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing or informal review.
- If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

HACFM Policy

When termination is initiated by HACFM, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HACFM, 30 days' notice will not be given. In these cases, the notice to terminate will be sent at the time HACFM learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to HACFM. HACFM will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

HACFM will give an applicant a notice of denial containing a brief statement of the PHA's decision to deny and how the applicant can request an informal review.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The HACFM must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the HACFM determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

HACFM Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with HACFM either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

15-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically. The owner may offer the family a separate unassisted lease.

15-II.H. VOUCHER REINSTATEMENT

The Executive Director of the HACFM holds the discretionary authority to reinstate Section 8 Housing Choice Vouchers that have been previously terminated. Reinstatement of a voucher may occur under the following circumstances:

1. **Exceptional Circumstances**: A voucher may be reinstated if the termination was due to circumstances beyond the control of the participant, such as medical emergencies, natural disasters, or other situations deemed extraordinary.
2. **Compliance with Program Obligations**: The participant must demonstrate that they are now in compliance with all Section 8 program obligations or that the cause for the previous termination has been resolved satisfactorily.
3. **Timeliness of Request**: A request for reinstatement must be submitted in writing within 60 days from the date of voucher termination, unless extended for good cause at the discretion of the Executive Director.
4. **Review Process**: The Executive Director will review each reinstatement request on a case-by-case basis, considering factors such as the participant's history, the reasons for termination, and any supporting documentation provided.
5. **Final Decision**: The decision to reinstate a voucher is at the sole discretion of the Executive Director and is final. No appeal process is available for reinstatement decisions.

PART III: TERMINATION OF TENANCY BY THE OWNER

15-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family and HACFM is not directly involved. The owner is under some constraints when terminating an assisted tenancy. The reasons for which a tenancy is terminated will dictate whether assistance also will be terminated.

15-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 , Tenancy Addendum

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

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or

other amounts due under the lease. However, the HACFM's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

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

Criminal Activity or Alcohol Abuse

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

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

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

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

The owner may terminate tenancy for criminal activity by a household member in accordance with this section 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.

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

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking.

Other Good Cause

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

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

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

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

15-III.C. EVICTION [24 CFR 982.310(e) and (f), Tenancy Addendum]

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

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

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action

HACFM Policy

The owner must give HACFM a copy of any eviction notices at the same time the owner notifies the family. The family is also required to give HACFM a copy of any eviction notice.

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

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

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

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

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

failure to act that warrants termination.

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

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

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA).

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

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

HACFM Policy

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

HACFM will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

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

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. HACFM will determine eligibility of the new member.

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

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

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

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

- Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.
- Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.
- Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.
- Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.
- Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.
- Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.
- Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age and are receiving HCV assistance.
- Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

HACFM Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the HACFM's Board of Commissioners'

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- Payment Standards, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- Utility Allowances, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

HACFM Policy

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

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACFM will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

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

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

HACFM Policy

HACFM has establish a payment standard schedule that establishes payment standard amounts for each FMR area within HACFM's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, HACFM has establish a single payment

standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. HACFM has establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards [24 CFR 982.503(b)].

HACFM Policy

HACFM will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the HACFM will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability

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

Rent Burden of Participating Families

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

Quality of Units Selected

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

Changes in Rent to Owner

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

Unit Availability

The HACFM will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate

The HACFM will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on December 1st of every year unless, based on the proposed FMRs, it appears that one or more of the HACFM's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the PHAs payment standards will be effective October 1st instead of December 1st.

If HACFM has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, HACFM will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by HACFM at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

HACFM will request HUD approval to establish payment standards that are higher than the basic range if needed.

At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area.
Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

HACFM Policy

A family that requires a reasonable accommodation (See Chapter 2 for a discussion of reasonable accommodations), may request a higher payment standard (120%) at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HACFM must determine that:

- There is a shortage of affordable units that would be appropriate for the family.
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

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

HACFM Policy

If HACFM finds a substantial percentage of families have difficulty finding a suitable unit, HACFM may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows HACFM to set its payment standards at 90-120 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, HACFM must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants (67% as of 6/1/2024).

- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, HACFM may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

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

HACFM Policy

HACFM will request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

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

HACFM Policy

HACFM established utility allowance schedules are used in determining family share and HACFM subsidy. HACFM maintains a utility allowance schedule for (1) all tenant- paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant- paid housing services such as trash collection.

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. HACFM uses a 3rd party vendor to determine normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance includes the utilities and services that are necessary in the locality to provide housing that complies with NSPIRE. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, HACFM classifies utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

Air Conditioning

HACFM Policy

The HACFM has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the HACFM will apply this allowance to a family's rent and subsidy calculations. The utility allowance for the family is the lower of the voucher size issued or actual bedroom sized lease.

Reasonable Accommodation

HACFM Policy

HACFM will approve a utility allowance amount higher than shown on the HACFM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, HACFM will approve an allowance for air-conditioning, even if the HACFM has determined that an allowance for air-conditioning generally is not needed.

Utility Allowance Revisions

HACFM Policy

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

HACFM will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554] and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

HACFM Policy

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

- Denying listing on HACFM waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

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

- Discretionary administrative determinations by the HACFM
- General policy issues or class grievancesA determination of the family unit size under the HACFM subsidy standards
- HACFM determination not to grant approval of the tenancy
- HACFM determination that the unit is not in compliance with the NSPIRE
- HACFM determination that the unit is not in accordance with the NSPIRE due to family size or composition

The HACFM will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the HACFM waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

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

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

Scheduling an Informal Review

HACFM Policy

A request for an informal review must be made in writing and delivered to the HACFM either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACFM's denial of assistance.

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

Informal Review Procedures [24 CFR 982.554(b)]

HACFM Policy

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

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

The person conducting the review will make a recommendation to the HACFM, but the HACFM is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

HACFM Policy

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

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The HACFM will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HACFM will uphold the decision to deny assistance.

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

HACFM will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

HACFM Policy

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

HACFM is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

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

Decisions Subject to Informal Hearing

HACFM Policy

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

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACFM utility allowance schedule
- A determination of the family unit size under HACFM's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HACFM policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

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

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

Informal Hearing Procedures

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

HACFM Policy

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

- The proposed action or decision of the HACFM.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the HACFM's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing. To whom the hearing request should be addressed.
- A copy of the HACFM's hearing procedures.

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

HACFM Policy

A request for an informal hearing must be made in writing and delivered to the HACFM either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACFM's decision or notice to terminate assistance.

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

Informal hearings may be conducted in person or remotely based on PHA staff preference or reasonable accommodation.

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

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

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

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

HACFM Policy

The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119. The family must request discovery of HACFM documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

HACFM must be given an opportunity to examine at the HACFM offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HACFM will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

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

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

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

HACFM Policy

The informal hearing shall be conducted by the hearing officer appointed by HACFM who is neither the person that made or approved the decision nor a subordinate of that person. HACFM appoints hearing officers who are HACFM management from departments other than the HCV program, HACFM employees trained as hearing officers in departments other than the HCV program. HACFM also used other PHA's to serve as hearing officers as needed.

Attendance at the Informal Hearing

HACFM Policy

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

- A HACFM representative(s) and any witnesses for the HACFM
- The participant and any witnesses for the participant The participant's counsel or other representative
- Any other person approved by the HACFM as a reasonable accommodation for a person with a disability

Conduct at Hearings [24 CFR 982.555(4)(ii)]

HACFM Policy

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

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

HACFM Policy

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

Oral evidence: the testimony of witnesses

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

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

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

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either HACFM or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

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

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

HACFM Policy

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

- **HACFM Notice to the Family**: The hearing officer will determine if the reasons for the HACFM's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the HACFM and the family were given the opportunity to examine any relevant documents in accordance with HACFM policy.
- **PHA Evidence to Support the PHA Decision**: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

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

Hearing information:

- Name of the participant.
- Date, time and place of the hearing.
- Name of the hearing officer.
- Name of the PHA representative; and Name of family representative (if any).

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

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

If the participant fails to appear at a scheduled hearing, the hearing officer, for good cause may make a determination to postpone the hearing for a period of time not to exceed five (5) working days (except for an expedited hearing) or may make a determination that the party has waived its right to a hearing. Both the participant and the HACFM will be notified of any such determination by the hearing officer, provided that determination that participant has waived their rights to a hearing shall not constitute a waiver of any right of the participant, may have to contest the PHA's disposition of grievance in an appropriate judicial proceeding.

Procedures for Rehearing or Further Hearing

HACFM Policy

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

In addition, within 10 business days after the date the hearing officer's report is mailed to the HACFM and the participant, the HACFM or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand- delivered to the hearing officer and to the other party within the 10-business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the HACFM to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

PHA Notice of Final Decision [24 CFR 982.555(f)]

HACFM Policy

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

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

The HACFM will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the HACFM's file.

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

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

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

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

HACFM Policy

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

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

USCIS Appeal Process [24 CFR 5.514(e)]

HACFM Policy

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

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

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

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

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

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

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

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

HACFM Policy

The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119. The family must request discovery of HACFM documents no later than 12:00 p.m. on the business day prior to the hearing.

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

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

Representation and Interpretive Services

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

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

HACFM Policy

The HACFM will not provide a transcript of an audio taped hearing unless requested and paid for in advance by the client.

Hearing Decision

HACFM Policy

HACFM will provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 business days of the date of the informal hearing. The decision must state the basis for the decision.

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

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

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

Missed Appointment Policy

The PHA requires all applicants and participants to attend scheduled appointments in order to ensure timely processing of applications, certifications, and continued program participation.

One rescheduled appointment will be automatically permitted without penalty if the participant or applicant notifies the PHA in advance or within one (1) business day following the missed appointment.

Requests for additional rescheduling beyond the initial allowance will only be considered under extenuating circumstances such as family or medical emergencies. Such requests will be reviewed on a case-by-case basis and are subject to the sole discretion of the PHA. Verification of the extenuating circumstance may be required.

Failure to attend scheduled appointments without proper notification or approval of rescheduling may result in withdrawal of the application or termination of program assistance in accordance with HUD regulations and this Administrative Plan.

Retention of Documents [24 CFR 5.514(h)]

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

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

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW 24 CFR 982.54

HACFM Policy

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

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

When an owner or participant refuses to repay monies owed to HACFM, HACFM will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

HACFM Policy

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

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

If the owner is not entitled to future HAP payments the HACFM will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACFM will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

HACFM Policy

Any amount due to the HACFM by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, HACFM will offer a repayment agreement in accordance with the policies in chapter 18.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACFM will terminate the assistance upon notification to the family and pursue other modes of collection.

Debts due to Fraud/Non-Reporting of information

HACFM POLICY

If a family owes an amount which equals or exceeds $5,000.00 as a result of program fraud (unreported income), the case will be referred to the Inspector General and local law enforcement. Where appropriate, the HACFM will refer the case for criminal prosecution.

Families who owe money to the HACFM due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of Chapter 18.

Repayment Agreement [24 CFR 792.103]

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

Repayment Agreement Guidelines

Down Payment Requirement

HACFM Policy

1. Request the family to attempt to pay in full the amount due to HACFM.
2. Request the family to pay 50% of the debt owned as a down payment and enter into a repayment agreement for the balance, or
3. If the family is unable to comply with 1 or 2, a repayment agreement may be considered as follows:

    - If the full amount is under $300, a repayment agreement of not less than $50 per month but must be paid in full by the end of the current fiscal year**.**
    - If the full amount is over $300, a repayment agreement for payment in the amount of one-twelfth (1/12) of the full amount per month, or
    - Repayment agreements for large retroactive changes shall be at the discretion of the Director of Housing Operations or their authorized designee.

    With exception of extreme circumstances, all repayment agreements must be paid within a maximum of twelve (12) months.

Execution of the Agreement

HACFM Policy

The head of household and spouse/co head (if applicable) must sign the repayment agreement.

Due Dates

HACFM Policy

- Repayment Agreements are due and payable on the 1st of each month.
- All payments are due by the close of business on the 5th day of the month. If the 5th day falls on a weekend or holiday, the HACFM will consider the next due date to be the close of the next business day after the 5th.

Late Payments

HACFM Policy

- If the family's payment agreement is in arrears, the HACFM will consider this a breach of payment and demand the balance to be paid in full or terminate assistance.

Non-Payment

HACFM Policy

- The repayment agreement will be in default when 1 payment is delinquent.
- the family to pay the balance in full and or purse civil collection and terminate program assistance

No Offer of Repayment Agreement

HACFM Policy

HACFM will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

PART V: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-V.A. OVERVIEW

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

16-V.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

HACFM Policy

The HACFM will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-V.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

HACFM Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HACFM is not providing such a report.

PART VI: DETERMINATION OF INSUFFICIENT FUNDING

16-VI.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VI.B. METHODOLOGY

HACFM Policy

The HACFM will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HACFM's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HACFM will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACFM cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACFM will be considered to have insufficient funding.

PART VII: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-VII.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]

VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.

HACFM Policy

The HACFM will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of HACFM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACFM will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-VII.B. NOTIFICATION TO APPLICANTS

HACFM Policy

The HACFM will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HACFM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACFM will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-VII.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

HACFM Policy

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The HACFM may utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate in day-to-day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the HACFM lobby and/or mass mailings which include model VAWA certification forms.

Chapter 17:

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HACFM policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the HACFM will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to NSPIRE, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the HACFM's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the HACFM and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

HACFM Policy

The HACFM will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACFMs not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HACFM is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACFM policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

HACFM Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACFM policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance will be paid with funds provided by the owner, local public funds, or funds available from other sources. HACFM may not use voucher program funds to cover relocation costs, except that HACFMs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HACFM to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The HACFM must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HACFM must comply with the HACFM Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

The HACFM must describe the procedures for owner submission of PBV proposals and for HACFM selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the HACFM must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The HACFM must select PBV proposals in accordance with the selection procedures in the HACFM administrative plan. The HACFM must select PBV proposals by either of the following two methods.

- HACFM request for PBV Proposals. The HACFM may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HACFM request. The HACFM may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The HACFM may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

HACFM procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the HACFM. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the HACFM request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACFM Policy

HACFM Request for Proposals for Rehabilitated and Newly Constructed Units

The HACFM will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

- **Fort Myers News Press**
- **Spanish Newspapers (if available)**

In addition, the HACFM will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HACFM will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACFM estimates that it will be able to assist under the funding the HACFM is making available. Proposals will be due in the HACFM office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HACFM by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HACFM will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP.

Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities.

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the HACFM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

<u>HACFM Requests for Proposals for Existing Housing Units</u>

The HACFM will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

- **Fort Myers News Press**
- **Spanish Newspapers (if available)**

In addition, the HACFM will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The HACFM will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACFM estimates that it will be able

to assist under the funding the HACFM is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program.

Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities.

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

HACFM Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACFM will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The HACFM may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

- **Fort Myers News Press**
- **Spanish News Papers (if available)**

In addition to, or in place of advertising, the HACFM may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The HACFM will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities; and

- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

HACFM-owned Units [24 CFR 983.51(e) and 983.59]

A HACFM-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACFM-owned units were appropriately selected based on the selection procedures specified in the HACFM administrative plan. If the HACFM selects a proposal for housing that is owned or controlled by the HACFM, the HACFM must identify the entity that will review the HACFM

proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of HACFM-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, NSPIRE inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACFM jurisdiction (unless the HACFM is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACFM Policy

The HACFM may submit a proposal for project-based housing that is owned or controlled by the HACFM. If the proposal for HACFM-owned housing is selected, the HACFM will use another entity to review the HACFM selection, to perform inspections and rent reasonableness for the PBV program. The HACFM will obtain HUD approval of entity prior to selecting the proposal for HACFM-owned housing**.**

The HACFM may only compensate the independent entity and appraiser from HACFM ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACFM may not use other program receipts to compensate the independent entity and appraiser for their services. The HACFM, independent entity, and appraiser may not charge the family any fee for the appraisal, or the services provided by the independent entity.

HACFM Notice of Owner Selection [24 CFR 983.51(d)]

The HACFM must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HACFM Policy

Within 10 business days of the HACFM making the selection, the HACFM will notify the selected owner in writing of the owner's selection for the PBV program. The HACFM will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACFM will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the HACFM used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACFM will also post the notice of owner selection on its electronic web site.

The HACFM will make available to any interested party its rating and ranking sheets and documents that identify the HACFM basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The HACFM will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACFM will make these documents available for review at the HACFM during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The HACFM may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HACFM selection, the units substantially comply with NSPIRE. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HACFM must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HACFM choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The HACFM may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the HACFM may not attach or pay PBV assistance for a unit occupied by an owner and the HACFM may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The HACFM may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the HACFM determination. The HACFM may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

HACFM Policy

The HACFM will not use high-rise elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]

A HACFM may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit.
- A unit subsidized with any other form of Section 8 assistance.
- A unit subsidized with any governmental rent subsidy.
- A unit subsidized with any governmental subsidy that covers all or any part of the operating

costs of the housing.

- A unit subsidized with Section 236 rental assistance payments (except that a HACFM may attach assistance to a unit subsidized with Section 236 interest reduction payments).
- A Section 202 project for non-elderly with disabilities.
- Section 811 project-based supportive housing for persons with disabilities.
- Section 202 supportive housing for the elderly.
- A Section 101 rent supplement project.
- A unit subsidized with any form of tenant-based rental assistance.
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HACFM in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The HACFM may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACFM must submit the necessary documentation to HUD for a subsidy layering review. The HACFM may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the HACFM may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units).
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

HACFMs must include in the HACFM administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A HACFM may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the HACFM administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The HACFM must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The HACFM administrative plan must state the form and frequency of such monitoring.

HACFM Policy

The HACFM will provide PBV assistance for excepted units.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A HACFM may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

HACFM may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A HACFM may also determine not to provide PBV assistance for excepted units, or the HACFM may establish a per-building cap of less than 25 percent.

HACFM Policy:

The HACFM will provide assistance for excepted units. Beyond that, the HACFM will not impose any further cap on the number of PBV units assisted per building.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and NSPIRE Site Standards [24 CFR 983.57(b)]

The HACFM may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the HACFM has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HACFM Plan under 24 CFR 903 and the HACFM administrative plan.

In addition, prior to selecting a proposal, the HACFM must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the NSPIRE site and neighborhood standards at 24 CFR 982.401(l).

HACFM Policy

It is the HACFM goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the HACFM will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HACFM will grant exceptions to the 20 percent standard where the HACFM determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment.

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area.

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area.

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances will HACFM approve PBV assistance in a census tract with a

concentration factor greater than 75 percent of the community-wide poverty are or forty percent, whichever is lower.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The HACFM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- Have adequate utilities and streets available to service the site.
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- The site must have adequate utilities and streets available to service the site.
- The site must not be located in an area of minority concentration unless the HACFM determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area.
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate.
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17.II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The HACFM activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACFM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACFM may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACFM, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACFM must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HACFM must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special NSPIRE that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting NSPIRE inspections.

17-III.B. NSPIRE [24 CFR 983.101]

The NSPIRE (NSPIRE) for the tenant-based program, including those for special housing types, generally apply to the PBV program. NSPIRE requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The HACFM must ensure that the percentage of accessible dwelling units complies with the

requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The HACFM must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACFM must inspect all the units before the proposal selection date and must determine whether the units substantially comply with NSPIRE. To qualify as existing housing, units must substantially comply with NSPIRE on the proposal selection date. However, the HACFM may not execute the HAP contract until the units fully comply with NSPIRE.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The HACFM must inspect each contract unit before execution of the HAP contract. The HACFM may not enter into a HAP contract covering a unit until the unit fully complies with NSPIRE.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the HACFM must inspect the unit. The HACFM may not provide assistance on behalf of the family until the unit fully complies with NSPIRE.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the HACFM must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with NSPIRE. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HACFM must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The HACFM must inspect contract units whenever needed to determine that the contract units comply with NSPIRE, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACFM must take into account complaints and any other information coming to its attention in scheduling inspections.

The HACFM must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an NSPIRE violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of NSPIRE.

In conducting HACFM supervisory quality control NSPIRE inspections, the HACFM should include a representative sample of both tenant-based and project-based units.

Inspecting HACFM-owned Units [24 CFR 983.103(f)]

In the case of HACFM-owned units, the inspections must be performed by an independent

agency designated by the HACFM and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACFM and to the HUD field office where the project is located. The HACFM must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the HACFM-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACFM must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with NSPIRE, and the HACFM agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACFM will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units.
- Number of contract units by area (size) and number of bedrooms and bathrooms.
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent.
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant.
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement.
- Estimated initial rents to owner for the contract units.
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the HACFM, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above NSPIRE.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after HACFM notice of proposal selection to the selected owner. However, the HACFM may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HACFM may not enter into the Agreement until the environmental review is completed and the HACFM has received environmental approval.

HACFM Policy

The HACFM will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work are started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The HACFM must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the HACFM in the form and manner required by the HACFM:

- Owner certification that the work has been completed in accordance with NSPIRE and all requirements of the Agreement; and

- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HACFM's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACFM Policy

The HACFM will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACFM will specify any additional documentation requirements in the Agreement to enter into HAP contract.

HACFM Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the HACFM must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with NSPIRE and any additional requirements imposed under the Agreement. The HACFM must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HACFM must not enter into the HAP contract.

If the HACFM determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACFM must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The HACFM must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms.
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building.
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit.
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner.
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant.
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8.
- The HAP contract term.
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The HACFM may not enter into a HAP contract until each contract unit has been inspected and the HACFM has determined that the unit complies with the NSPIRE (NSPIRE). For existing housing, the HAP contract must be executed promptly after the HACFM selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HACFM has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HACFM Policy

For existing housing, the HAP contract will be executed within 10 business days of the HACFM determining that all units pass NSPIRE.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the HACFM determining that the units have been completed in

accordance with the agreement to enter into HAP, all units meet NSPIRE, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The HACFM may enter into a HAP contract with an owner for an initial term of no less than one year and no more than ten years.

HACFM Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the HACFM may extend the term of the contract for an additional term of up to five years if the HACFM determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

HACFM Policy

When determining whether or not to extend an expiring PBV contract, the HACFM will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units.

The owner's record of compliance with obligations under the HAP contract and lease(s).

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACFM [24 CFR 983.205(c)]

The HAP contract must provide that the term of the HACFM's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HACFM in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HACFM may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HACFM. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for NSPIRE Violations [24 CFR 983.207(b)]

The HACFM may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with NSPIRE. If the HACFM determines that a contract does not comply with NSPIRE, the HACFM may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HACFM Policy

The HACFM will abate and terminate PBV HAP contracts for non-compliance with NSPIRE in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At the HACFM's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HACFM must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At the HACFM's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HACFM's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACFM Policy

The HACFM will consider adding contract units to the HAP contract when the HACFM determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates), or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with NSPIRE.
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases.
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HACFM, and the lease is in accordance with the HAP contract and HUD requirements.
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence.
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit.
- The amount of the HAP the owner is receiving is correct under the HAP contract.
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units.
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with NSPIRE, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HACFM and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The HACFM may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with NSPIRE.

HACFM Policy

The HACFM will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACFM will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the HACFM, the HAP contract may provide for vacancy payments to the owner for a HACFM-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the HACFM and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

HACFM Policy

The HACFM will decide on a case-by-case basis if the HACFM will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The HACFM may select families for the PBV program from those who are participants in the HACFM's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HACFM, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the HACFM's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACFM Policy

The HACFM will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HACFM is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the HACFM's waiting list. Once the family's continued eligibility is determined (the HACFM may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HACFM must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The HACFM may establish a separate waiting list for PBV units, or it may use the same waiting list for both tenant-based and PBV assistance. The HACFM may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the HACFM. If the HACFM chooses to offer a separate waiting list for PBV assistance, the HACFM must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a HACFM decides to establish a separate PBV waiting list, the HACFM may use a single waiting list for the HACFM's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HACFM Policy

The HACFM will establish and manage separate waiting lists for individual projects or

buildings that are receiving PBV assistance.

1. General Policy

The Housing Authority of the City of Fort Myers (HACFM) may establish and manage site-based waiting lists (SBWLs) for certain mixed subsidy properties in its Project-Based Voucher (PBV) programs. Site-based waiting lists will be administered in accordance with HUD regulations, applicable PIH Notices, and HACFM's Administrative Plan.

2. Purpose of Site-Based Waiting Lists

The purpose of site-based waiting lists is to:

- Provide applicants with the opportunity to select housing in specific developments or neighborhoods that meet their family's needs.
- Enhance housing choice by allowing families to apply for properties that differ by location, amenities, and subsidy mix (e.g., PBV, LIHTC, and HACFM-owned units);
- Improve occupancy and reduce vacancy periods at mixed subsidy properties; and
- Ensure consistency, transparency, and fairness in the application and selection process.

3. Establishment of Site-Based Waiting Lists

- HACFM will maintain a central HCV/PBV waiting list but may also establish separate site-based waiting lists for mixed subsidy properties.
- Each site-based list will be open to all applicants who are eligible for the program and meet HACFM's screening criteria.
- HACFM will announce the opening and closing of any site-based waiting list in compliance with HUD fair housing and equal opportunity requirements. Public notice will include property location, unit sizes, subsidy type(s), and application procedures.
- Some site-based waiting lists may be maintained by the third-party management company selected by HACFM to operate and manage the property. In such cases, HACFM will provide oversight to ensure compliance with HUD requirements, equal opportunity regulations, and the provisions of this Administrative Plan.

4. Applicant Choice

- Applicants may choose to be placed on the central waiting list, one or more site-based waiting lists, or both.
- Placement on a site-based waiting list will not affect the applicant's position on the central waiting list or other site-based lists.
- Applicants may decline offers from one site without jeopardizing their status on other lists.

The HACFM currently **has** waiting list for the following PBV ~~projects~~ Communities:

- The Homes at Renaissance Preserve
- Covington Meadows
- Stella Apartments
- Broadway Apartments
- Coconut Cove 1 & 2. (maintained in one waitlist)
- East Pointe Place II
- Latimer Crossing

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the HACFM's waiting list. The HACFM may establish selection criteria or preferences for occupancy of particular PBV units. PBV owners may maintain their own waitlist. The HACFM may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the HACFM's tenant-based and project-based voucher programs during the HACFM fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HACFM must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The HACFM may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The HACFM must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the HACFM is prohibited from granting preferences to persons with a specific disability, the HACFM may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the HACFM has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include "excepted units" (units specifically made available for

elderly or disabled families, or families receiving supportive services), the HACFM must give preference to such families when referring families to these units [24 CFR 983.261(b)].

HACFM Policy

The HACFM will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for "excepted units," mobility impaired persons for accessible units). The HACFM will not offer any additional preferences for the PBV program or for particular PBV projects or units.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The HACFM is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance.
- Deny any admission preference for which the applicant qualifies.
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HACFM's selection policy.
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the HACFM must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the HACFM must provide a briefing packet that explains how the HACFM determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the HACFM must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the HACFM must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The HACFM should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HACFM from the HACFM's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the HACFM's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the HACFM of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HACFM must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HACFM and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACFM Policy

The owner must notify the HACFM in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HACFM will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the HACFM may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

HACFM Policy

If any contract units have been vacant for 120 days, the HACFM will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The HACFM will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HACFM's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

HACFM Responsibility

The HACFM is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the HACFM may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACFM Policy

The HACFM will not conduct screening to determine a PBV applicant family's suitability for tenancy. HACFM shall screen for program eligibility. The management must determine tenancy screening requirements.

The HACFM must provide the owner with an applicant family's current and prior address (as shown in HACFM records) and the name and address (if known by the HACFM) of the family's current landlord and any prior landlords.

In addition, the HACFM may offer the owner other information the HACFM may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACFM must provide applicant families a description of the HACFM policy on providing information to owners, and the HACFM must give the same types of information to all owners.

HACFM Policy

The HACFM will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover NSPIRE inspection or before. The HACFM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills.
- Caring for a unit and premises.
- Respecting the rights of other residents to the peaceful enjoyment of their housing.
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the HACFM, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a HACFM model lease.

The HACFM may review the owner's lease form to determine if the lease complies with state and local law. If the HACFM determines that the lease does not comply with state or local law, the HACFM may decline to approve the tenancy.

HACFM Policy

The HACFM will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant.
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit).
- The term of the lease (initial term and any provision for renewal).
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements.
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements.

- The composition of the household as approved by the HACFM (the names of family members and any HACFM-approved live-in aide).
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HACFM must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HACFM a copy of all changes.

The owner must notify the HACFM in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HACFM and in accordance with the terms of the lease relating to its amendment. The HACFM must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the 25 percent per building cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACFM policy. According to program requirements~~, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.~~ The family must supply any information or certification requested by the PHA to verify that the family is living in the assisted unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences.

The family must promptly notify the PHA of any absence from the unit. An absence is considered any time the family (or all members of the household) are away from the unit for more than thirty (30) consecutive days.

The PHA may approve absences of up to 180 consecutive days if the absence is due to circumstances such as medical treatment, hospitalization, temporary relocation for employment, or other good cause. Absences beyond 180 days are not permitted unless specifically approved by HUD regulation.

If the family is absent from the unit for longer than the maximum allowable period, the PHA will terminate assistance in accordance with HUD requirements. The unit must be the family's sole residence.

During all absence the family is still required to complete all certifications and attend all required PHA appointments.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The HACFM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACFM Policy

The HACFM will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance form the tenant. The HACFM has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If the HACFM determines that a family is occupying a wrong size unit, based on the HACFM's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the HACFM must promptly notify the family and the owner of this determination, and the HACFM must offer the family the opportunity to receive continued housing assistance in another unit.

HACFM Policy

The HACFM will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the HACFM's determination. The HACFM will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the HACFM offers the family a tenant-based voucher, the HACFM must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACFM).

If the HACFM offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HACFM, or both, the HACFM must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HACFM.

HACFM Policy

When the HACFM offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HACFM will terminate the housing assistance payments at the expiration of this 30-day period.

The HACFM may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the HACFM. If the family wishes to move with continued tenant-based assistance, the family must contact the HACFM to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HACFM is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the HACFM must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The HACFM may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building.
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the HACFM. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the HACFM and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the HACFM, and the HACFM must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the HACFM.

HACFM Policy

The HACFM will not provide PBV assistance for excepted units.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HACFM, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance.
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986.
- The contract unit is not located in a qualified census tract.
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a HACFM-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard).

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance.
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the HACFM must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the HACFM must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the HACFM may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the HACFM may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

HACFM Policy

Upon written request by the owner, the HACFM will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACFM will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACFM may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HACFM determines it is necessary due to HACFM budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The HACFM must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the HACFM, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the HACFM. The HACFM may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual

and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACFM Policy

An owner's request for a rent increase must be submitted to the HACFM 60 days prior to the anniversary date of the HAP contract or effective date of requested rent increase and must include the new rent amount the owner is proposing.

The HACFM may not approve, and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with NSPIRE. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the HACFM to the owner specifying the amount of the redetermined rent. The HACFM notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACFM Policy

The HACFM will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

HACFM-owned Units [24 CFR 983.301(g)]

For HACFM-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HACFM must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HACFM.

When Rent Reasonable Determinations are Required

The HACFM must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date.
- The HACFM approves a change in the allocation of responsibility for utilities between the

owner and the tenant.

- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HACFM must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HACFM. The comparability analysis may be performed by HACFM staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HACFM may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II. D).

Other Subsidy [24 CFR 983.304]

At its discretion, a HACFM may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project.
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action.
- A Section 221(d)(3) below market interest rate (BMIR) project.

- A Section 515 project of the Rural Housing Service.
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the HACFM must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with NSPIRE and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HACFM agree on a later date.

Except for discretionary vacancy payments, the HACFM may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HACFM is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HACFM determines that the vacancy is the owner's fault.

HACFM Policy

If the HACFM determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HACFM will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACFM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HACFM, the HAP contract may provide for vacancy payments to the owner. The HACFM may only make vacancy payments if:

- The owner gives the HACFM prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge).
- The owner certifies that the vacancy is not the fault of the owner, and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HACFM to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the

HACFM and must provide any information or substantiation required by the HACFM to determine the amount of any vacancy payment.

HACFM Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACFM of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACFM may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACFM within 10 business days of the HACFM's request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HACFM in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HACFM notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HACFM is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HACFM. The owner must immediately return any excess payment to the tenant.

Tenant and HACFM Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HACFM.

Likewise, the HACFM is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HACFM is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HACFM may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the HACFM must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The HACFM may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HACFM chooses to pay the utility supplier directly, the HACFM must notify the family of the amount paid to the utility supplier.

HACFM Policy

The HACFM will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

Chapter 18
PROJECT-BASED VOUCHERS UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

The HACFM is not participating tin the Project-Based Rental Assistance Demonstration Program.

Chapter 19

OWNER OR FAMILY DEBTS TO THE HACFM

[24 CFR 982.552]

This chapter describes the HACFM's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HACFM's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HACFM's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the HACFM, the HACFM will make every effort to collect it. The HACFM will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Payment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs
-

19-I.A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)]

HACFM Policy

1. Request the family to attempt to pay in full the amount due to HACFM.

2. Request the family to pay 50% of the debt owned as a down payment and enter into a repayment agreement for the balance, or

3. If the family is unable to comply with 1 or 2, a repayment agreement may be considered as follows:

   - If the full amount is under $300, a repayment agreement of not less than $50 per month but must be paid in full by the end of the current fiscal year**.**
   - If the full amount is over $300, a repayment agreement for payment in the amount of one-twelfth (1/12) of the full amount per month, or
   - Repayment agreements for large retroactive changes shall be at the discretion of the Director of Housing Operations or their authorized designee.

With exception of extreme circumstances, all repayment agreements must be paid within a maximum of twelve (12) months.

1. Repayment Agreements are due and payable on the 1st of each month.

2. If the family already has a payment agreement in place and incurs an additional debt to the HACFM:

    - The HACFM will not enter into more than one payment agreement with the family.

19-I.B. DEBTS OWED TO PHA'S OR OTHER FEDERALLY ASSISTEDHOUSING PROGRAMS [24 CFR 792.103, 982.552 (c)(v-vii)]; 24 CFR 5.233]

HACFM Policy

It is the policy of the HACFM not to provide rental assistance to a family which owes money to this or any other Public Housing Authority. Documented proof of payment in full must be provided to HACFM within 10 days of the notification from HACFM before housing assistance will be provided. Failure to provide documented proof will result in denial of assistance.

19-I.C. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552(c)(v-vii)]

HACFM Policy

- Payment agreements will be executed between HACFM and the head of household and co-head or head of household and spouse.
- The payment agreement must be executed by the Housing Specialist, Section 8 Supervisor or Director of Housing Operations.
- Payments may only be made by money order or cashier's check.
- Repayment Agreements are due and payable on the 1st of each month.
- All payments are due by the close of business on the 5th day of the month. If the 5th day falls on a weekend or holiday, the HACFM will consider the next due date to be the close of the next business day after the 5th.
- The repayment agreement will be in default when 1 payment is delinquent.
- When a repayment agreement is in default, HACFM will require the family to pay the balance in full and or pursue civil collection and terminate program assistance.
- Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Section 8 Supervisor or higher authority.
- No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the payment agreement is current:
    - Family size exceeds the NSPIRE maximum occupancy standards
    - The HAP contract is terminated due to owner non-compliance or opt-out
    - A natural disaster

Program Fraud

HACFM Policy

If a family owes an amount which equals or exceeds $5,000.00 as a result of program fraud (unreported income), the case will be referred to the Inspector General and local law enforcement. Where appropriate, the HACFM will refer the case for criminal prosecution.

Families who owe money to the HACFM due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

19-I.D. OWNER DEBTS TO THE HACFM [24 CFR 982.453(b)]

HACFM Policy

If the HACFM determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the HACFM may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the HACFM will:

- Require the owner to pay the amount in full within 30 days.
- Enter into a payment agreement with the owner for the amount owed.
- Pursue collections through the local court system.
- Pursue collection through any other HAP Contracts in effect for other tenants.
- Restrict the owner from future participation.

19-I.E. WRITING OFF DEBTS

HACFM Policy

Debts will be written off if:

- The debtor's whereabouts are unknown, and the debt is more than 5 years old or;
- A determination is made that the debtor is judgment proof or.
- The debtor is deceased or.
- The debtor is confined to an institution indefinitely or for more than 5 years or.
- The amount is less than $500.00 and the debtor cannot be located.

19-I.F. DEBTS DUE TO MINIMUM RENT TEMPORARYHARDSHIP

HACFM Policy

If a minimum rent temporary hardship has been granted by HACFM, a repayment agreement will be offered in accordance with the guidelines in the Payment Agreement Section of this Chapter

If the family is unable to comply with 1 or 2, a repayment agreement may be considered as follows:

- If the full amount is under $300, a repayment agreement of not less than $50 per month but must be paid in full by the end of the current fiscal year**.**

Chapter 20

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of HACFM. This chapter describes the policies, procedures and standards to be used when families disagree with a HACFM decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of HACFM to ensure that all families have the benefit of all protections due to them under the law.

20-I.A. PREFERENCE DENIALS

HACFM Policy

When HACFM denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with HACFM staff to discuss the reasons for the denial and to dispute HACFM's decision.

The person who conducts the meeting will be:

- The Housing Specialist or their designee.
- An employee of HACFM who is at or above the level of Housing Specialist but not the employee who made the decision.

20-I.B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]

HACFM Policy

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When HACFM determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible,
- The procedure for requesting a review if the applicant does not agree with the decision and
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, HACFM will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

HACFM must provide applicants with the opportunity for an informal review of decisions

denying:

- Qualification for preference
- Listing on HACFM's waiting list
- Issuance of a voucher
- Participation in the program
- Assistance under portability procedures

Informal reviews are not required for established policies and procedures and HACFM determinations such as:

- Discretionary administrative determinations by HACFM General policy issues or class grievances
- A determination of the family unit size under HACFM subsidy standards
- Refusal to extend or suspend a voucher
- A HACFM determination not to grant approval of the tenancy Determination that unit is not in compliance with NSPIRE
- Determination that unit is not in accordance with NSPIRE due to family size or composition

Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than 10 business days from the date of HACFM's notification of denial of assistance. The informal review will be conducted within 30 days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

- **The HCV Program Manager**
- **The HCV Director**

An informal review consists of reviewing the file for accuracy, compliance and determining whether or not the applicant fulfilled his/her obligations and appropriate steps were taken prior to denial of assistance. The applicant has the right to present oral or written objections to the decision. Both HACFM and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of the review findings will be provided in writing to the applicant within 10 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision. All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

20-I.C. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]

HACFM Policy

When HACFM makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. HACFM will give the family prompt notice of such determinations which will include:

- The proposed action or decision of HACFM.
- The date the proposed action or decision will take place.

- The family's right to an explanation of the basis for HACFM's decision.
- The procedures for requesting a hearing if the family disputes the action or decision.
- The time limit for requesting the hearing.
- When terminating assistance for criminal activity as shown by a criminal record, HACFM will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.
- To whom the hearing request should be addressed
- A copy of HACFM's hearing procedures

HACFM must provide participants with the opportunity for an informal hearing for decisions related to any of the following HACFM determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment
- Appropriate utility allowance used from schedule
- Family unit size determination under HACFM subsidy standards
- Determination to terminate assistance for any reason.
- Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account.

HACFM must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and HACFM determinations such as:

- Discretionary administrative determinations by HACFM
- General policy issues or class grievances
- Establishment of HACFM schedule of utility allowances for families in the program
- A HACFM determination not to approve an extension or suspension of a voucher term
- A HACFM determination not to approve a unit or lease
- A HACFM determination that an assisted unit is not in compliance with NSPIRE (HACFM must provide hearing for family breach of NSPIRE because that is a family obligation determination)
- A HACFM determination that the unit is not in accordance with NSPIRE because of the family size
- A HACFM determination to exercise or not exercise any right or remedy against
- the owner under a HAP contract

Notification of Hearing

It is HACFM's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, HACFM will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When HACFM receives a request for an informal hearing, a hearing shall be scheduled within 30 days. The notification of hearing will contain:

- The date and time of the hearing

- The location where the hearing will be held
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense
- The right to view any documents or evidence in the possession of HACFM upon which HACFM based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. The participant must request the documents no later than 12:00 pm on the business day prior to the scheduled hearing date.

A notice to the family that HACFM will request a copy of any documents or evidence the family will use at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

HACFM's Hearing Procedures

- After a hearing date is scheduled, the family may request to reschedule onlyupon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.
- If the family does not appear at the scheduled time, and did not make arrangements in advance, HACFM will proceed with the termination.
- If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact HACFM within [24] hours, excluding weekends and holidays. HACFM will reschedule the hearing only if the family can show good cause for the failure to appear.
- Families have the right to:
  - Present written or oral objections to HACFM's determination.
  - Examine the documents in the file which are the basis for HACFM's action, and all documents submitted to the Hearing Officer.
  - Copy any relevant documents at their expense.
  - Present any information or witnesses pertinent to the issue of the hearing.
  - Request that HACFM staff be available or present at the hearing to answer questions pertinent to the case; and
  - Be represented by legal counsel, advocate, or other designated representative at their own expense.
- In no case will the family be allowed to remove the file from HACFM's office. The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119.
- In addition to other rights contained in this Chapter, HACFM has a right to:
  - Present evidence and any information pertinent to the issue of the hearing.
  - Be notified if the family intends to be represented by legal counsel, advocate, or another party.
  - Examine and copy any documents to be used by the family prior to the hearing.
  - Have its attorney present; and
  - Have staff persons and other witnesses familiar with the case present.
- The informal hearing shall be conducted by the hearing officer appointed by HACFM who is neither the person that made or approved the decision nor a subordinate of that person? HACFM

appoints hearing officers who are HACFM management from departments other than the HCV program, HACFM employees trained as hearing officers in departments other than the HCV program. HACFM also used other PHA's to serve as hearing officers as needed.

- The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.
- The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.
- If the family misses an appointment or deadline ordered by the Hearing Officer, the action of HACFM shall take effect and another hearing will not be granted.
- The Hearing Officer will determine whether the action, inaction or decision of HACFM is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.
- A notice of the hearing findings shall be provided in writing to HACFM and the family within 10 business days and shall include:
  - A clear summary of the decision and reasons for the decision.
  - If the decision involves money owed, the amount owed.
  - The date the decision goes into effect.
- HACFM is not bound by hearing decisions:
  - Which concern matters in which HACFM is not required to provide an opportunity for a hearing.
  - Which conflict with or contradict to HUD regulations or requirements.
  - Which conflict with or contradict Federal, State or local laws; or
  - Which exceed the authority of the person conducting the hearing?
- HACFM shall send a letter to the participant if it determines HACFM is not bound by the Hearing Officer's determination within [10] days. The letter shall include HACFM's reasons for the decision.
- All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

20-I.D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" |24 CFR Part 5, Subpart E]

In accordance with the Quality Housing and Work Responsibility Act of 1998, HACFMs may no longer elect not to comply with ("opt-out" of) the noncitizen requirements (Part 5, Subpart E).

- Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.
- Assistance to a family may not be terminated or denied while HACFM hearing is pending but assistance to an applicant may be delayed pending HACFM hearing.

INS Determination of Ineligibility

HACFM Policy

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, HACFM notifies the applicant or participant within ten business days of their right to appeal to the INS within thirty days or to request an informal hearing with HACFM either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give HACFM a copy of the appeal and proof of mailing or HACFM may proceed to deny or terminate. The time period to request an appeal may be extended by HACFM for good cause.

The request for a HACFM hearing must be made within 30 days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 30 days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members HACFM will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, HACFM will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

20-I.E. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]

HACFM Policy

When applicants are denied placement on the waiting list, or HACFM is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

- Examples of mitigating circumstances are a) A person with a cognitive disorder may not

have understood the requirement to report increases in income, b) A person may not understand the need to make regular repayments on a promissory note, c) Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

Chapter 21

SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The HACFM will permit the use of [any special housing types/state which housing types] in its program only if the applicant/participate can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation.

The HACFM will not set aside any program funding for special housing types, or for a special housing type.

Verification of Need for Reasonable Accommodation
Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the HACFM describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by [Section 8 Coordinator] and a written response stating approval or disapproval will be sent to the applicant/participant within [30] days of receipt of the request.

A copy of the HACFM's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and NSPIRE requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

21-I.A. SINGLE ROOM OCCUPANCY [24 CFR 982.602]

HUD has determined that there is a demand for SROs in this area. Therefore, a single person may reside in an SRO housing unit. The HACFM will use a separate lease and housing assistance payment contract for each assisted person residing in an SRO. [24 CFR 982.603]

SRO Rent and Housing Assistance Payment [24 CFR 982.604]

Pre-merger Regular Certificate Program

The payment standard for SRO housing is 75 percent of the zero-bedroom FMR.

Voucher Program

The HACFM SRO payment standard is 75 percent of the zero-bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent of the HUD-approved zero-bedroom exception payment standard amount. While an assisted person

resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

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

NSPIRE
The HACFM will ensure that all SRO units approved for the program are in compliance with all of the NSPIRE for SROs as regulated in 24 CFR 982.605.

21-I.B. CONGREGATE HOUSING [24 CFR 982.606]
An elderly person or a person with disabilities may reside in a congregate housing unit. The HACFM may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

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

Lease and HAP Contract [24 CFR 982.607]
For congregate housing there will be a separate lease and HAP contract for each assisted family. Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the HACFM payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one-bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

NSPIRE
The HACFM will ensure that all congregate housing units approved for the program are in compliance with all of the NSPIRE for congregate housing as regulated in 24 CFR 982.609.

21-I.C. GROUP HOMES [24 CFR 982.610, 982.612]
A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the HACFM, a live-in aide may reside with a person with disabilities.

The HACFM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The HACFM will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.
Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any HACFM-approved live-in Aide.

Group Home Rent and HAP Contract [24 CFR 982.613]
The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent, the HACFM will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy
Unless there is a live-in aide, the family unit size is **one bedroom**. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the HACFM payment standard schedule for the group home size.

Utility Allowance
The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

NSPIRE
The HACFM will ensure that all group home units approved for the program are in compliance with all of the NSPIRE for group homes as regulated in 24 CFR 982.614.

21-I.D. SHARED HOUSING [24 CFR 982.615]
An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

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

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the HACFM. However, housing assistance may not be paid on behalf of an owner. The HACFM will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.
Rent and HAP Contract

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five-bedroom unit, the ratio would be 3/5.

The rent to owner to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

Maximum Subsidy

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the HACFM payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the HACFM payment standard for the shared housing unit size.

If the HACFM approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

NSPIRE

The HACFM will ensure that all shared housing units approved for the program are in compliance with all of the NSPIRE for shared housing as regulated in 24 CFR 982.618.

21-I.E. COOPERATIVE HOUSING [24 CFR 982.619]

The HACFM will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low- income families. The HACFM will not approve assistance for a family in cooperative housing until the HACFM has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative’s debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The HACFM may approve a live-in aide to reside with the family to care for a person with disabilities. The HACFM will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. If the HACFM approves a live-in aide, the live-in aide will be counted when determining the family unit size.

NSPIRE
The HACFM will ensure that all cooperative housing units approved for the program are in compliance with all of the NSPIRE outlined in the "NSPIRE and Inspections" chapter and regulated by 24 CFR 982.401.

21-I.F. MANUFACTURED HOMES [24 CFR 982.620]
The HACFM will permit a family to lease a manufactured home and space with assistance under the program. The HACFM **will** provide assistance for a family that owns the manufactured home and leases only the space.

The HACFM may approve a live-in aide to reside with a family to care for a person with disabilities. The HACFM will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the HACFM approves a live-in aide, the live-in aide must be counted when determining the family unit size.

NSPIRE [24 CFR 982.621]
A manufactured home must meet all the NSPIRE requirements outlined in the "NSPIRE and Inspections" chapter and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

Manufactured Home Space Rental [24 CFR 982.622]
Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent
During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the HACFM.

The HACFM will not approve a lease for a manufactured home space until the HACFM has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACFM will redetermine that the rent is reasonable.

The HACFM will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACFM will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the HACFM, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the HACFM, the owner must provide the HACFM information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space *[24 CFR 982.623]*

The FMR for a manufactured home space will be determined by HUD.

HAP for the Regular Tenancy Program
For the Regular Tenancy Program, the initial rent to owner for leasing a manufactured home space may not exceed the published FMR for a manufactured home space.

During the term of a certificate tenancy, entered prior to the merger date, the amount of the monthly housing assistance payment equals the lesser of:

The manufactured home space cost minus the:

The Total Tenant Payment; OR

The rent to owner for the manufactured home space.

"Manufactured home space cost" means the sum of the amortization cost, the utility allowance, and the rent to owner for the manufactured home space.
The amortization cost may include debt service to amortize costs (other than furniture costs) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount will be reduced by 15 percent to exclude debt service to amortize the cost of furniture, unless the HACFM determines that furniture was not included in the purchase price.

Any debt service due to refinancing the manufactured home after purchase of the home is not included in the amortization costs.

The HACFM **will not** approve as part of the monthly amortization payment, set-up charges to be

included in the debt service incurred by a family that relocates its home.

The HACFM **will not** include as part of the monthly amortization payment, set-up charges incurred before the family became an assisted family if monthly payments are still being made to amortize such charges.

HAP for the Voucher Tenancy
There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program
During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

The payment standard minus the total tenant payment; or

The rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the HACFM:

Rent to owner for the manufactured home space.

Owner maintenance and management charges for the space.

The utility allowance for tenant paid utilities.

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]
The HACFM will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

21-I.G. MAINSTREAM VOUCHER PROGRAM [PIH Notice 2024-30]

~~***Program Overview [Notice PIH 2020-01]***~~

~~Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.~~

~~Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.~~

~~The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.~~

~~Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.~~

~~***Eligible Population [Notice PIH 2020-01 and Notice PIH 2020-22]***~~

~~All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.~~

~~The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.~~

~~Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.~~

~~The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.~~

Partnership And Supportive Services [Notice PIH 2020-01]

The HACFM has established formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

HACFM Policy

The HACFM will implement a Mainstream program, in partnership with:

- *Abuse Counseling & Treatment*
- *Affordable Homeownership Foundation, Inc*
- *Beyond Barriers, Inc*

- *Center for Independent Living Gulf Coast*
- *Community Assisted and Supported Living, Inc*
- *Community Cooperative, Goodwill Industries of Southwest Florida*
- *Hope Clubhouse of Southwest Florida*
- *Lee County Department of Human and Veteran Services*
- *Lee County Refugee Center, Inc*
- *Lee Health*
- *Our Mother's Home of Southwest Florida, Inc*
- *The Center for Progress and Excellence, Inc*

Waiting List Administration

General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

HACFM Policy

The HACFM does not claim a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA.

Portability [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.

- If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.

- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

1. General Policy

The Housing Authority of the City of Fort Myers (HACFM) administers a separate waiting list for Mainstream Vouchers, in accordance with 24 CFR Part 982 and applicable HUD Notices. Mainstream Vouchers are designated to assist non-elderly persons with disabilities and their families.

2. Eligibility

- Mainstream Vouchers are available to families with at least one non-elderly disabled adult (age 18–61) at the time of admission.
- Eligibility is determined based on HUD definitions of disability and income limits.
- Families must also meet all other standard eligibility requirements for the Housing Choice Voucher Program.

3. Maintenance of the Waitlist

- HACFM will maintain a separate waitlist specifically for Mainstream Vouchers.
- Families may be placed on both the regular HCV waitlist and the Mainstream waitlist if eligible.
- Applicants on the Mainstream waitlist will be selected for Mainstream Vouchers only, unless they also qualify under the general HCV program.

4. Referral-Based Preference

- HACFM will operate the Mainstream Voucher waitlist as a referral-based preference system.
- Applicants must be referred to HACFM by an authorized community partner with whom HACFM has executed a current Memorandum of Understanding (MOU).
- Selection from the waitlist will be made on a first-come, first-served basis according to the date of receipt of the referral from the community partner.
- Referrals must confirm that the family meets all Mainstream eligibility requirements, including disability status and age criteria.

5. Waitlist Openings and Closings

- HACFM will publicly announce openings and closings of the Mainstream waitlist through outreach efforts that affirmatively further fair housing and ensure that eligible persons with disabilities and their families are informed of availability.
- Outreach will include coordination with disability service providers, advocacy organizations, and other authorized referral partners.

6. Selection from the Waitlist

- Families will be selected in the order that referrals are received by HACFM from authorized community

partners.

- HACFM will ensure that selections are made in a fair and nondiscriminatory manner consistent with HUD and Fair Housing regulations.

7. Portability

- Families assisted under the Mainstream Voucher Program retain all rights to portability in accordance with standard HCV rules.
- When porting, HACFM will ensure the receiving PHA is aware that the voucher is a Mainstream Voucher so it is administered under the correct funding stream.
- If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
- If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

8. Reporting and Oversight

- HACFM will track admissions and utilization of Mainstream Vouchers separately from the general HCV program.
- All reporting to HUD will be done in compliance with HUD requirements, including identification of Mainstream participants in PIC/IMS and other systems.
- HACFM will provide oversight to ensure that all referrals received through MOUs are properly documented and maintained for compliance review.

Project-Basing Mainstream Vouchers [FY19 Mainstream Voucher NOFA Q&A]

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

21-I.H. VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

Overview

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental

assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance.

HCV Program Eligibility [FR-6476-N-01]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.
- The PHA must determine the applicant's annual income for purposes of income eligibility by excluding all VA service-connected benefits received by the HUD-VASH applicant in addition to the income exclusions listed under 24 CFR 5.609(b). This special income exclusion only applies to the definition of annual income for purposes of determining income eligibility. If the HUD-VASH applicant now qualifies as a low-income family under this alternative requirement, the VA service-connected benefits (with the exception of the normally excluded deferred VA disability payments under 24 CFR 5.609(b)(16) and the

payments related to aid and attendance under 24 CFR 5.609(b)(17)) must still be included as annual income when calculating the family's adjusted income under 24 CFR 5.611. In other words, the VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the total tenant payment (TTP), housing assistance payment, and family share.

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

Portability [FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability Moves Within Same Catchment Area (or Area of Operation) Where Case Management is Provided by the Initial PHA's Partnering VA Medical Facility

If the family initially leases up, or moves, under portability provisions, but the initial PHA's partnering VA medical facility will still be able to provide the necessary case management services due to the family's proximity to the partnering VA medical facility, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VA medical facility, receiving PHAs without a HUD-VASH program must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

Portability Moves Where Receiving PHA is Beyond VA Medical Facility Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VA medical facility to provide case management services, the VA must first determine that the HUD-VASH family could be served by another VA medical facility that is participating in this program, and the receiving

PHA must have a HUD-VASH voucher available for this family. In these cases, the family must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family, as determined by the partnering VA medical facility, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the Family Report (HUD-50058 or HUD-50058 MTW) under the scenario described above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCV program) or "4" for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or portability move-in, in section 12 of the HUD-50058, line 12d is always marked "Y." In cases of portability where families move out of the catchment area of the initial PHA, 12e must be 0 since the family must be absorbed, and 12f must be left blank.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP. However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

Exception Payment Standards

Many housing markets with a high need for HUD-VASH are very competitive with a shortage of affordable rental units. In addition, landlords may be reluctant to rent to individuals experiencing homelessness due to poor credit history or lack of recent rental history. To assist HUD-VASH participants in finding affordable housing, especially in competitive markets, HUD is waiving 24 CFR 982.503(a)(2) and (b) to allow a PHA to establish a separate HUD-VASH 35 exception payment standard. Without this waiver, a PHA is required to establish a single payment standard amount for each unit size. Additionally, 24 CFR 982.503(c) is waived so that PHAs may go up to, but no higher than 120 percent of the published metropolitan area-wide Fair Market Rents (FMRs) or Small Area FMRs (based on the PHA's applicable FMR) specifically for their HUD-VASH program. A PHA that wants to establish a HUD-VASH exception payment standard over 120 percent, as allowed by 24 CFR 982.503(d)(4), must still request approval from HUD through the process outlined in notice PIH 2018-16, or any successor notices. Exception payment standards implemented by the PHA under this Section also apply in determining rents under 24 CFR 983.301(b) for PBV projects only when the project is comprised solely of units exclusively made available to HUD-VASH families. This is because the contract rents established for the project may not be different based on whether the unit is a |HUD-VASH PBV unit or a non-HUD-VASH PBV unit. HUD-VASH PHAs may also establish an exception payment standard up to 140 percent of the published FMR or Small Area FMR (based on which FMR the PHA is applying) only to be applied if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at § 982.507. To allow this, HUD is waiving

Section 8(o)(1)(D) of the United States Housing Act of 1937 (42 U.S.C 1437f(o)(1)(D)) and 24 CFR 982.503(d)(5). A PHA may use a payment standard that is greater than 140 percent of FMR as a reasonable accommodation for a person with a disability, but only with HUD approval.

FAMILY SELF-SUFFICIENCY (FSS)

1. Purpose

The Family Self-Sufficiency (FSS) Program is designed to promote economic independence for families participating in the Housing Choice Voucher (HCV) Program. The program provides supportive services, case management, and an escrow savings incentive to help families achieve employment goals, reduce dependence on public assistance, and work toward economic self-sufficiency.

2. Program Administration

The Housing Authority of the City of Fort Myers (HACFM) administers the FSS Program in accordance with Section 23 of the United States Housing Act of 1937, as amended, and HUD regulations at 24 CFR Part 984. Participation is voluntary and is offered to eligible HCV families in good standing with their housing obligations.

3. Program Size and Selection

- HACFM will establish and maintain an FSS Program consistent with HUD requirements and available resources.
- Enrollment may be limited based on HUD funding, grant awards, and agency capacity.
- Selection of participants will be conducted in a nondiscriminatory manner and may include referrals from community partners, outreach to HCV families, or self-referrals.
- Preference may be given to families with expressed goals toward employment, education, or homeownership.

4. Contract of Participation (CoP)

- Each family enrolled in the FSS Program will enter into a Contract of Participation (HUD-52650) with HACFM.
- The CoP will outline the rights and responsibilities of both the family and HACFM, including the development of an Individual Training and Services Plan (ITSP) for each adult family member who elects to participate.
- The term of the CoP is five years, with the possibility of an extension of up to two years for good cause.

5. Escrow Account

- HACFM will establish and maintain a separate interest-bearing escrow account for each participating family in accordance with 24 CFR 984.305.
- Escrow credits will be based on increases in the family's earned income that result in an increase in the family's Total Tenant Payment (TTP).
- Families may access escrow funds upon successful completion of their CoP, provided all obligations are met, including being free of welfare assistance dependency at graduation.
- Interim disbursements from escrow may be permitted for activities related to achieving goals outlined in the ITSP, subject to HACFM approval and HUD requirements.

6. Program Services

HACFM will coordinate with community partners, educational institutions, workforce development agencies, and social service providers to offer supportive services which may include:

- Job training, employment counseling, and placement assistance
- GED and higher education programs
- Financial literacy, credit counseling, and homeownership readiness services
- Childcare, transportation, and other supportive resources as needed

7. Termination of Participation

Participation in the FSS Program may be terminated by HACFM if:

- The family fails to comply with the terms of the Contract of Participation
- The family voluntarily withdraws from the program
- The family moves out of the HACFM jurisdiction and portability is not feasible for FSS continuation
- The family loses HCV assistance due to program violations

In cases of termination, any accumulated escrow funds will be forfeited, except as permitted under HUD regulations.

8. Graduation from the Program

A family successfully graduates from the FSS Program when:

- They have fulfilled the goals outlined in their Individual Training and Services Plan, and
- No member of the family is receiving cash welfare assistance for 12 consecutive months prior to program completion.

Upon graduation, the family is entitled to receive the balance of its escrow account, including any interest accrued.

COST SAVING OPTIONS ADDENDUM

In recent years the management of the Housing Choice Voucher (HCV) Program has become more difficult for the Housing Authority of the City of Fort Myers (HACFM) and all other housing authorities managing the HCV program. As Congress and HUD change the way they fund the program, more and more challenges face the HACFM.

There are no simple solutions to the challenges the HACFM faces and the actions we must take will vary depending on circumstances that are often beyond our control. Therefore, HACFM hereby establishes in its Administrative Plan the following options that will be considered by the Board of Commissioners depending on the particular circumstances of the time. They are not listed in any particular order.

1. None of these options will be implemented without Board of Commissioner approval and the opportunity for affected participants to address the Board of Commissioners.
2. Any actions taken under this section of the Administrative Plan will terminate if and when the procuring reason for the action is no longer in effect.
3. Rescissions will also require Board of Commissioner approval.
4. Notwithstanding anything in this Section, the adoption of policies noted herein to deny portability or moves within the jurisdiction or revision of payment or subsidy standards, reasonable accommodation requests for a person's disability must still be evaluated in accordance with HUD's Section 504 implementing regulations at 24 CFR part 8.
5. Such requests will be granted when an accommodation is necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, unless it would impose an undue financial and administrative burden on HACFM or fundamentally alter the nature of our operations.

There shall be one basic principle that will guide HACFM in implementing any or all of the options listed below:

- What must HACFM do to assist the maximum number of eligible people in a quality HCV Program while maintaining the fiscal integrity of the program and impacting a participant's rent burden as little as possible?

HACFM shall endeavor to protect elderly and disabled families from significant impact (defined as loss of one's Housing Choice Voucher) but recognizes that what is feasible is dependent on the amount of funding provided to the program.

The options are as follows:

A. The HCV Payment Standards may be reviewed in light of the funding situation. If payment standards are reduced, the lower payment standard shall go into effect immediately for new admissions, participants moving from one unit to another, and people staying in place who require a new HAP contract because they are signing a new lease. In **extraordinary** circumstances, the HACM may be forced to ask HUD for

a waiver so that even those participants staying in place without a new lease shall have their payment standard decreased immediately instead of the normal second regular reexamination after the lowering of the payment standard. HCV Payment Standards must be established according to HUD regulation so that no more than 40% of the participants are paying more than 30% of their monthly adjusted income for rent. If circumstances dictate it, the HACFM may be forced to ask for a waiver of this prohibition in order to sufficiently lower its payment standard.

B. Since Housing Authorities do not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted, the HACFM will ensure that owner rents do not exceed amounts charged for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner **leasing promotions** for unassisted tenants (e.g., the initial two months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

In accordance with the HAP contract, the HACFM will provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the HACFM, the owner must reduce the rent to the reasonable amount, or the HAP contract must be terminated. In such cases, the family will be issued an HCV to find a new unit. (Movers, like new participants, are subject to the HACFM's current payment and occupancy standards.)

C. The utility allowance schedule may be reviewed to determine if the utility allowances are too high. If they are too high that means that the participants are being subsidized in an excess manner. The new utility allowance schedule may be placed into after a thirty-day notice or at a participant's next reexamination depending on the financial circumstances the HACFM finds itself in.

As stated in Chapter 16, utility allowances are supposed to be adjusted annually or sooner if there is a utility rate decrease or increase of 10% or more. If circumstances warrant, the HACFM reserves the right to seek a HUD waiver of this regulatory requirement.

D. An initial PHA may request that a receiving PHA absorb portable families for which the initial PHA is being billed. This may include the receiving PHA retroactively absorbing families for which the initial PHA was already billed and made payments. In these cases, the receiving PHA reimburses the initial PHA for payments made back to the effective date of the absorption. Both the receiving PHA and initial PHAs must agree to this arrangement. This provision provides an exception to section 10 of Notice PIH 2008-43 on HCV Portability and Corrective Actions. (Section 10 provides that the receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.) The HACFM will attempt to get receiving PHAs to absorb whenever possible.

E. If financial circumstances dictate, the HACFM may deny discretionary portability moves to a higher cost area inside or outside its jurisdiction for its HCV participants and/or shoppers if the HACFM has insufficient funds to pay the higher subsidy amounts and the receiving housing authority declines to absorb the family. While the Board of Commissioners must establish this policy after an examination of the fiscal affairs of the organization, individual denials of portability shall only occur after the HACFM has determined that the receiving housing authority will not absorb the family. The denial of absorption shall be documented in that person's file.

F. This can only occur if the portability action would cause the HACFM to be unable to avoid terminating the vouchers of current voucher participants during the affected calendar year. If a family is denied its portability request, no subsequent families will be admitted to the program until the HACFM has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.

G. If financial circumstances dictate, the HACFM may deny the right of a participant to move within the jurisdiction of the HACFM to a portion of the jurisdiction that has a higher payment standard than the portion of the jurisdiction the participant currently lives in if the HACFM has insufficient funds to pay the higher subsidy amounts.

H. Housing Choice Vouchers issued to families on the waiting list that have not resulted in HAP contracts may be cancelled.

I. The HACFM may be forced to not reissue vouchers surrendered by current participants immediately upon their return to the Housing Authority. Instead, the vouchers may be held in the Authority's inventory in order to avoid dire financial consequences. The amount of time they will be held shall be determined based upon the financial situation of the Housing Authority.

J. The subsidy standards set forth in Chapter 5 may be reexamined. The size of the unit the Housing Choice Voucher is issued for may need to be reduced. For example, you may use the zero-bedroom payment standards for households with only one person.

K. A program wide study may be conducted to ensure that families are utilizing the proper size Housing Choice Voucher for their current family size. HACFM may require over-housed participants to locate a unit appropriate to their voucher size.

L. If the minimum rent is increased under Chapter 6, it can be made the first of the month following the month families are notified of the increase (provided there has been at least a 30-day notice) instead of at the next reexamination.

M. The requirement of when families have to report changes of their income as set forth in Section 12 may be modified due to the financial pressure facing the HACFM. Also, the new rent payment may become effective at the start of the next month provided there has been a thirty-day notice.

N. Owners participating in the HCV Program may be asked to voluntarily reduce the rents they are charging participants in order to assist in the financial solvency of the program. This must be a truly voluntary program.

O. The absolute last step the HACFM will take to resolve its HCV financial problems will be to terminate the vouchers of families already receiving assistance after notifying the HUD Field Office and its Financial Analyst at the Financial Management Center. If this becomes necessary, the following sequence shall be used to determine which individual HCV are terminated first.

1. Tenants with unreported income that currently owe HACFM at the time of implementing this cost saving measure; and

2. HACFM will run a Criminal Background check on all participants and those who have obtained felony record will be removed from the HCV program; and

3. Tenants who have been assisted the longest will be removed first.

If it becomes necessary for the HACFM to terminate Housing Choice Vouchers, the families terminated shall be reinstated onto the program as soon as fiscally and practically feasible. The following readmission sequence shall be utilized.

1. The tenants that were removed due to their length of time being assisted will be reinstated in the order that they were removed; and

Tenants that were removed for not reporting income in a timely manner will be reinstated if they have paid the HACFM in full for any debts owed to this agency.

EIV SECURITY POLICY

Introduction

The purpose of this policy is to provide instruction and information to staff, auditors, consultants, contractors and applicants and residents for the acceptable use, disposition and storage of data obtained through EIV (Enterprise Income Verification System). This policy has been developed to ensure that EIV data is secure. This policy has been communicated to all persons with access to EIV or EIV data. This policy has been developed to ensure compliance with HUD's security protocol regarding the three safeguard categories:

1. Technical
2. Administrative
3. Physical

Property management staff for HACFM will have the responsibility of ensuring compliance with the security policies and procedures outlined in this document. These responsibilities include:

- Maintaining and enforcing the security procedures
- Keeping records and monitoring security issues
- Communicating security information and requirements to appropriate personnel including coordinating and/or conducting security awareness training sessions
- Conducting review of all User IDs issued to determine if the users still have a valid need to access EIV data and taking necessary steps to ensure that access rights are revoked or modified as appropriate
- Reporting any evidence of unauthorized access or known security breaches to the office of the Director of Housing Operation and taking immediate action to address the impact of the breach including but not limited to prompt notification to compliance officer**.** Director of Housing Operations or his/her designee will escalate the incident by reporting to appropriate parties including the Contract Administrator and/or HUD.

The EIV Database is part of HUD's Secure Systems Database. Individual Users must use their own username (MID/WASS ID) and password to access the Secure Systems database.
Coordinators, who are not property owners, the Compliance Manager has obtained a letter of authorization from the property owner. This letter must state that the Secure Systems Coordinator has authorization to act as the EIV Coordinator. This letter is maintained in the property's EIV file and will be available to Reviewers during the Management and Occupancy Review.

In order to comply with **Technical Safeguards:**

- Each coordinator/user must have a valid WASS User ID and password
- IDs and passwords **must not be shared**
- No one may access the system using another user's identity
- Each user must provide an application access authorization form (CAAF or UAAF)
- Access to data is restricted based on EIV role (EIV Coordinator or EIV User)
- Access is limited based on need to know
- Users understand that access and activity are monitored

and audited to comply with **Administrative Safeguards:**

- The owner/agent has established standard operating procedures for use of data
- Employment and income data is used for certification and compliance purposes only
- Users may not share data with others who do not have a need to know
- Users will check to see if applicant/tenant is receiving assistance under another program at a different location
- The HACM will monitor access
    - Obtain and retain owner approval letters
    - Approved/current signed access authorization form
    - Conduct periodic reviews to see if user still a valid need has to access the EIV data
    - Modify or revoke rights as appropriate
    - Assign Access Ensure access rights and responsibilities are appropriate
- ~~Ensure that a signed copy of form HUD-9886 is on file for all adults living in the unit~~

Ensure that a signed copy of form HUD-9886-A is on file for all adults living in the unit

- Destroy EIV information when it is no longer needed
- Ensure all EIV users receive security training at time of implementation and at least annually thereafter
- Communicate security information
    - Posters
    - Security bulletins
    - Discussion groups
    - Distribution of EIV manuals
- Detect, deter, and report improper disclosures, unauthorized access, or security breaches to the Compliance Officer.

The owner/agent has also implemented the following processes to ensure compliance with HUD's **Physical Safeguard requirements:**

- Designated secure areas
- Restricted use of printers, copiers, facsimile machines, etc.
- Controlled access to areas containing EIV information
- How to secure computer systems and output

- If any EIV data is converted to an electronic format, it must be encrypted

    - All emails including EIV data must be encrypted
    - Store downloaded EIV data in a separate, restricted access directory
    - Label CDs containing EIV data "confidential" or "For Official Use Only"
    - Lock in secure place
- Users must retrieve all computer printouts as soon as they are generated so that EIV data is not left unattended
    - Keep printouts locked up
    - Printouts should not be transported from premises
    - Avoid leaving a computer unattended with EIV data displayed on screen
    - Lock computer/Log off/Exit the system when not going to be at desk or when finished for the day (EIV will time-out after 30 minutes of inactivity)
    - Use a password-protected screensaver
- Secure disposal of EIV information
    - Destroy as soon as it has served its purpose or as prescribed by HUD's policies and procedures
    - Burn/shred
    - Keep log of destroyed data
        - Date destroyed
        - How destroyed
        - By whom

Security Awareness Training

Security awareness training is a crucial aspect of ensuring the security of the EIV System and data. Users and potential users will be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of a security or privacy violation. Before granting access to the EIV information, each person must be trained in EIV Security policies and procedures.

Additionally, all employees having access to EIV Data will be briefed at least annually on the security policy and procedures that require their awareness and compliance. Information about user access and training will be maintained in the property EIV file.

EIV Users and Coordinators must complete the appropriate EIV Security Awareness Training Questionnaire during initial setup, as required by HUD and annually as prompted by the EIV system.

Physical Security Requirements

The owner/agent may use a combination of methods to provide physical security for resident file records. The EIV data may be maintained in a locked metal file cabinet within a locked file room.

☐ Restricted Areas: The owner/agent will have the areas clearly identified by the use of prominently posted signs or other indicators. For example, “Employees Only”. This sign will be posted on the door to the locked file room. The restricted areas will be separated from non- restricted areas by physical barriers that control access and/or will have limited points of entry.

☒ Since the EIV data in resident files is maintained in the locked file room, designated staff will establish and maintain a key control log to track the inventory of keys available, the number of keys issued and to whom the keys are issued. All employees and contractors who have beenissued keys to the file room will complete a form acknowledging the receipt of the key. See EIV Privacy Policy.

Users will retrieve computer printouts as soon as they are generated so that EIV data is not left unattended in printers or fax machines where unauthorized users may access them. EIV data will be handled in such a manner that it does not become misplaced or available to unauthorized personnel.

Limiting Access to EIV Data

User accounts for the EIV system will be provided on a need-to-know basis, with appropriate approval and authorization.

EIV System Coordinators

Before accessing EIV, the Secure Systems Coordinators will obtain a letter/memo from each property owner indicating that the owner gives permission for the Secure Systems Coordinator to act as the EIV coordinator. Once that permission is obtained, the coordinator will:

- Review the EIV training material provided by HUD
- Participate in EIV Security Training from HUD or another source
- Read and ☒ sign the EIV Security Policy
- Read the EIV Use Policy

Upon completion of these tasks, the EIV Coordinator will submit to HUD, the appropriate Coordinator Access Authorization Forms. Upon receipt of HUD approval, the EIV Coordinator will complete the EIV Coordinator setup process.

EIV Users

Before requesting EIV User access, appropriate staff will:

- Review the EIV training material provided by HUD
- Participate in EIV Security Training from HUD or another source

- Read and ☒ sign the EIV Security Policy
- Read the EIV Use Policy

Upon completion of these tasks, the EIV User will submit, to the EIV Coordinator, the appropriate User Access Authorization Form. The EIV Coordinator will confirm that the steps listed above have been completed. Once the tasks are satisfactorily completed, the EIV Coordinator will complete the appropriate steps to provide EIV access to the user. In accordance with HUD requirements, the user's need for access will be reviewed on a semiannual basis.

At least once a year, staff with EIV access will be required to:

- Participate in training that includes a review of the EIV security requirements and
- Complete the EIV Security Awareness Training Questionnaire

HACFM will restrict access to EIV data only to persons whose duties or responsibilities require access. EIV Coordinators will be required to request re-certification on an annual basis. EIV Coordinators are authorized to provide access only to those individuals directly involved in the resident certification process and/or compliance monitoring.

EIV Coordinators will carefully review initial and quarterly requests for access and certify only those users who will need access within the next 6 months.
☒ In some cases, EIV information may be provided to auditors charged with ensuring the owner/agent's compliance with HUD requirements. In these cases, the auditor will be required to review and sign the property's Privacy Policy for Auditors and will be required to sign the HUD Rules of Behavior document. These documents will be maintained in the property's EIV File. In addition, the auditor's access will be noted on the EIV File checklist for review during the RIM Review.

HACFM will maintain a record of users who have approved access to EIV data. Further, HACFM will revoke (Terminate) the access rights of those users who no longer require such access.

~~The HUD 9886 Fact Sheet will be provided to all adult household members required to sign the form. By signing this HUD Form 9886 the applicant/resident authorizes HUD and/or the owner/agent to obtain and verify income and unemployment compensation information from various sources including, but not limited to, the IRS, the Department of Health and Human Services and the Social Security Administration and state agencies. At the final eligibility interview and at each annual certification, HACFM will provide a copy of the EIV and You Brochure so that the household is adequately informed about the EIV verification process and so that the residents understand the penalty for failing to fully disclose income information.~~

The HUD-9886-A Fact Sheet will be provided to all adult household members required to sign the form. By signing this HUD-9886-A the applicant/resident authorizes HUD and/or the owner/agent to obtain and verify income and unemployment compensation information from various sources including, but not limited to, the

IRS, the Department of Health and Human Services and the Social Security Administration and state agencies. At the final eligibility interview and at each annual certification, HACFM will provide a copy of the EIV and You Brochure so that the household is adequately informed about the EIV verification process and so that the residents understand the penalty for failing to fully disclose income information.

~~**HACFM** will assure that a copy of Form HUD- 9886 has been signed by each member of the household age 18 years or older. The HUD 9886 will be presented~~
HACFM will maintain a properly executed HUD-9886-A for each required household member. The form is not routinely signed again at each annual review. Apply Chapter 7 for new household members, members turning 18, continuing consent, and revocation.

~~at the final eligibility determination, at move-in and/or initial certification and at each annual certification.~~ ~~**If a household member turns 18 in the middle of a certification cycle, that household member will be required to sign Form 9886**~~

Obtain consent at admission or when a new signature is otherwise required under Chapter 7; retain the continuing consent for annual and interim examinations.

within 30 days of turning 18 ☒ **at the next certification**.

Computer System Security Requirements

All computer systems and computers will have password restricted access. Passwords must be no fewer than 8 characters and must include:

- At least one lower case letter
- At least one upper case letter
- At least one number or character such as a dash or exclamation point

The owner/agent will also use Antivirus software to limit data destruction or unintended transmission via virus, worms, Trojan horses or other malicious means. Remote access by other computers other than those specifically authorized is prohibited. Authorized users of EIV data are directed to avoid leaving EIV data displayed on their computer screens where unauthorized users may view it. A computer will not be left unattended while the user is "logged in" to Secure Systems. If an authorized user is viewing EIV data and an unauthorized user approaches the work area, the authorized user will lessen the chance of inadvertent disclosure of EIV data by logging out of Secure Systems or minimizing or closing out the screen on which the EIV data is being displayed.

Usernames, Passwords and Password Changes

Many systems require frequent changes to passwords. Secure Systems / EIV passwords will be changed in accordance with HUD Secure Systems requirements. Users will not share passwords with any other employee or with anyone outside the organization. EIV access granted to an employee or authorized user will be revoked when access is no longer required or prior to termination of that employee or user to ensure data safety.

Termination of EIV access and un-assigning property access through "Property Assignment Maintenance" is required.

The EIV file will be documented to indicate when user access was terminated by the EIV Coordinator. Documentation of termination will be maintained in the property EIV file.

Disclosure of EIV Information

The EIV Social Security (SS), Supplemental Security Income (SSI), new hires (W-

4), wage, and unemployment compensation information contained in the EIV system may only be used for limited official purposes.

- By Local HUD field office personnel for monitoring and oversight of the resident recertification process
- By the Office of the Inspector General (OIG) for investigative purposes.
- By PHA's for verifying the employment and income at the time of certification for residents

EIV Data may is disclosed to:

- PHA's
- Management agents
- HUD staff
- HUD Office of Inspector General (OIG) for investigative purposes
- Individual to whom the

record pertains EIV income data

may only be used for:

- Verification of employment and income at certification
- Discrepancy monitoring as described in the EIV Use Policy

Under no circumstances may users or coordinators provide access to the system by sharing the username/password combination. Owner/agents must not disclose data in any way that would violate the privacy of the individuals.

EIV data must not be disclosed (or re-disclosed) to any third parties such as the local Welfare office, DFCS, etc. Willful disclosure or inspection of EIV data can result in civil and criminal penalties.

- Unauthorized disclosure – felony conviction and fine up to $5,000 or imprisonment up to five (5) years, as well as civil damages
- Unauthorized inspection – misdemeanor penalty of up to $1,000 and/or one (1) year imprisonment, as well as civil damages

Official use **does not include** using the EIV data for certifying residents under the Low Income Housing Tax Credit (LIHTC) or Rural Housing Services (RHS) Section 515 programs. Neither the Internal Revenue Service (IRS) nor RHS are a party to the computer matching agreements HUD has with the Department of Health and Human Services (HHS) and with the Social Security Administration (SSA).

The fact that there is financing through other federal agencies involved in a particular property under one of the authorized HUD programs **does not** permit that federal agency to **use or view** information from the EIV system for certifying residents for their programs or for monitoring purposes.

- Create separate files for HUD programs and other programs
- Maintain EIV information in a manila envelope that can be removed from the file to prevent unauthorized disclosure
- Create a separate EIV verification file to ensure the privacy of EIV information. OAs can make that file available to HUD or to HUD Reviewers when participating in the HUD Management and Occupancy Review conducted using the HUD Form 9834.

Use and Handling of EIV Data

EIV Data serves two purposes:

1. Verification of specific income information provided by the resident
2. Monitoring resident and staff compliance

Use of the data is described in the EIV User Policies. This policy is designed to describe the security protocol used to protect EIV data.

EIV Data will be used only to administer HUD programs. The data in EIV is not to be used to assist with eligibility determination or compliance monitoring for any other programs including those administered by the IRS (Tax Credit) or Rural Development (515).

EIV Printouts

☒ Reports available through EIV will not be printed to a shared printer unless the EIV user plans to immediately retrieve the data. It is preferred that all EIV printouts are sent to the user's personal printer. EIV printouts will be stored in the resident file for the term of residency and for three years after residency ends.

In addition to use by the owner/agent, EIV reports may also be used by Contract Administrators (CAs) (Performance Based Contract Administrators (PBCAs), Traditional Contract Administrators (TCAs) and HUD staff) for monitoring compliance with the recertification process; independent public auditors (IPAs) auditing an owner's compliance with HUD's verifying income and the accuracy of rent/subsidy determinations; and the Office of Inspector General (IG) for auditing purposes.

☒ EIV Income Reports are retained in the resident file for the term of tenancy and for the term after tenancy determined by HACFM Destruction Policy. Because the property also participates in other housing assistance programs (LIHC or 515) the owner/agent will take special precautions to ensure the security of the EIV printouts. EIV printouts will not be maintained in a separate resident file, separate from the tenant file. EIV printouts will be provided to approve parties, when required, to

facilitate compliance with HUD requirements and HACFM EIV Use Policy**.**

Providing EIV Printouts to Auditors

☒ Independent auditors (IPAs) are approved to view EIV information, when hired by an owner to perform the financial audit of the project, for use in determining the owner's compliance with verifying income and determining the accuracy of the rent and subsidy calculations.

Restrictions on disclosure requirements for IPAs:

(a) Can only access EIV income information within hard copy files and only within the offices of the owner or management agent.

(b) Cannot transmit or transport EIV income information in any form.

(c) Cannot enter EIV income information on any portable media.

(d) Must sign non-disclosure oaths (Rules of Behavior) that the EIV income information will be used only for the purpose of the audit; and

(e) Cannot duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

Providing EIV Printouts to Residents

If a resident request a copy of their own EIV printout, a copy will be produced. The staff person providing the copy will note that the printout is a copy provided to the resident upon request. This note will include the following:

- This is not an original, this is a copy provided to: Resident Name
- On_____ , 20
- By_____(name will be printed)
- Resident Initials_____

☒ The appropriate staff will make a note in the file any time a copy of the EIV data is obtained by authorized persons. This includes copies provided to the applicant/resident, staff responsible for compliance monitoring, other internal staff, HUD or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in this Security Policy.

Providing EIV Printouts to Individuals Supportive of residents

In some cases, residents require additional support from individuals during certification. The supporting individuals may or may not be part of the resident's

family. These include but are not limited to:

- Service coordinators
- Translators
- Guardians providing supportive services to residents with disabilities

If there is need to provide copies of EIV printout to those individuals so that they may assist with the certification process, the resident must sign a separate Release of Information Authorization Form that specifically identifies, by name, the person providing supportive service. The Authorization will also specify that the information is being provided solely to support HUD certification activity. The resident must sign and date the authorization. Authorized individuals who are associated with the owner or the owner's agent will also sign a copy of the EIV Rules of Behavior. The staff person providing the copy will note that the printout is a copy provided to the resident upon request.

This note will include the following:

- This is not an original, this is a copy provided to: Resident Name
- On_____ , 20
- By_____(name will be printed)
- Recipient Initials_____

☒ The appropriate staff will make a note in the file any time a copy of the EIV data is obtained by authorized persons. This includes copies provided to the applicant/resident, staff responsible for compliance monitoring, other internal staff, HUD, CA or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in this Security Policy.

Electronic Information from EIV

☒ In some cases, there may be a need to send or store EIV information electronically. In these cases, all electronic versions of EIV information will be encrypted. If there is need to store the information on a hard drive, a specific folder will be created. The folder will be password protected to prevent unauthorized access. Information in the folder will be purged periodically to comply with HUD's EIV file retention policies.

If EIV information is copied to portable media (CD, DVD, tape, etc.) that portable media will be destroyed appropriately upon completion of the intended use. Documentation of the destruction will be maintained in the EIV file.

Disposal of EIV Information

EIV data will be destroyed in a timely manner based on the information provided in HUD's published EIV training materials, HUD Handbook 2400.25, REV-2: HUD

Information Technology Security Policy, dated October 1, 2008, HUD notices or as prescribed by the owner/agent's policy and procedures. The owner/agent's policy and procedures will not allow data retention that is longer than the time allowed in the published HUD materials.

Information about use of EIV information and how printouts were destroyed will be maintained in the EIV file.

Reporting Improper Disclosures

Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and sharing of passwords.

Upon the discovery of a possible improper disclosure of EIV information or other security violation by an employee or any other person, the individual making the observation or receiving the information will contact the EIV Coordinator and the Director of Housing Operations who will document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred. The EIV Coordinator will immediately review the report of improper disclosure and, if appropriate, the EIV Coordinator will remove EIV access.

Improper disclosure of any information is grounds for immediate termination. All employees must carefully review the EIV Access Authorization Form or the Rules of Behavior to understand the penalties for improper disclosure of EIV data.

EIV Policy and Procedure - File Documentation

The Housing Authority of the City of Fort Myers (HACFM) requires all Housing and Section 8 staff to use the Enterprise Income Verification (EIV) system in its entirety to verify tenant / client employment and income information during the annual/flat rent update reexaminations of family composition and or income; and reduce the administrative and subsidy payment errors in to CFR24;5.236 and PIH 2010-19(HA) Notice (Administrative guidance issued by the Department of Housing and Urban Development (HUD).

- HACFM staff is responsible for performing annuals/ interims/new admissions/transfers and initial certification. Staff will access the EIV system and obtain an Income Report for each household, and staff is required to maintain this report in the tenant/client file that as an accompaniment to the 50058 (Family Report). The Required File Documentation:

  New Admissions:

- Housing Staff must run an EIV Income Report on all new admissions ninety (90) days from move in / admission to any HUD Assisted program to confirm and or validate family reported income.
- Any discrepancies must be resolved with 30 days of the date the EIV Income Report date and an interim must be performed if income changes the TTP or Tenant rent and retroactive back to the move in date (increases only).
- If the tenant does not appear in EIV, staff must notify the PIC Coordinator as soon as possible to verify if the 50058 have been accepted by PIC (Public and Indian Housing Information Center). Project based Section 8 programs must review TRACS.
- If it has been accepted and tenant/client income information is pending, staff will re-run the EIV Income Report again in ten (10) days. If the 50058 was not accepted the resubmission on the 50058 must be sent on the same date and follow up on until accepted. The EIV Income Report must be run again in thirty (30) days after resubmission to meet HUD's requirement of 90 days and tenant/client file and Data / Application Note Screen must be documented.

Annual Rexam:

- Housing staff should start the recertification process 120 days before the tenant's/client's anniversary month.
- EIV Income Reports will be run within 60-120 day before the start of the anniversary month.
- ~~EIV Income Report must be matched to tenant/client supplied income documentation. Documents cannot be older than 60 days old, current and consecutive.~~

Compare EIV information with acceptable family-supplied documentation under Chapter 7. Apply the 120-day source-document standard, fixed-income benefit-year allowance, current/consecutive pay-stub rules, and the EIV report timing rule as applicable; resolve discrepancies before adverse action.

- If the Income Report does not contain any employment or income information for the family, HACFM staff should attempt the next level verification technique, as noted in the below chart.

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	**Highest** (Mandatory)
5	**Upfront Income Verification (UIV)** using non-HUD system	**Highest** (Optional)

4	**Written third Party Verification**	**High** (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	**Written Third Party Verification Form**	**Medium-Low** (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	**Oral Third Party Verification**	**Low** (Mandatory if written third party verification is not available)
1	**Tenant Declaration**	**Low** (Use as a last resort when unable to obtain any type of third party verification)

- If a discrepancy exists, and the tenant disputes the EIV Income Report. The tenant and staff must resolve within 10 days of review and lease signing. Note: ultimately it is the tenant's responsible to disprove the EIV Income Report, however staff should be prepared do written third party verification.
- Tenant/client review and lease signing should take place at least 45 days before the start of the anniversary month.
- If staff find an income discrepancy exceeding $2,400.00 from what was projected from last year's income from the actual income the family reported, a third party verification must be done, and all information must be reported to the Director of Housing Management for the possibly of family being reported to the Office of HUD's OIG.
- The tenant/client file will contain the Summary Page with the ICN number, Income Report, Certification Page sign by tenant and the Income Discrepancy page. These forms

will be placed right after the 50058's and before the tenant supplied income documentation and or verifications.

- 30 days before anniversary month the tenant file should be quick audited by staff as a final review as well as SACS before the 50058 is transmitted to PIC.

Interim Rexam:

HACFM Policy:

- The HACFM will only use EIV information during interim examinations under the following circumstances:
  - ¬ To verify that families claiming zero income are not receiving income from any sources listed in EIV.

Acceptable File Documentation

- If the family does not dispute EIV employer data, and HACFM determines that additional information is not necessary, acceptable file documentation consists of:
  - EIV income detail report with the ICN number; and or
  - EIV ICN number page and EIV Certification page instead of the income report; and
  - Tenant –provided documents
- If the family disputes the EIV employer data, or HACFM staff determines thatadditional information is necessary, file documentation includes:
  - EIV income report printout as noted above.
  - Tenant-provide documents.
  - Third-party written verification, such as an employer form.

If staff only uses the ICN and EIV Certification pages to document the tenant/client file, the detailed income report will be destroyed by shredding.

The Housing Authority of the City of Fort Myers

Homeless Set-aside Voucher Addendum

A. MISSION

I. The Housing Authority of the City of Fort Myers (HACFM) in conjunction with Lee County Human & Veteran Services (LCHVS), is committed to servicing the homeless population in obtaining safe, decent, affordable long-term stable housing. Lee County LCHVS's role is to identify individuals and families directly from Coordinated Entry and refer to HACFM. HACFM will process customer for eligibility and offer a Homeless set-aside voucher.

II. HACFM is devoted in aiding the fight against homelessness working hand in hand with our partnering Lee County Human & Veteran Services by providing Homeless Set-aside Vouchers to fulfill the housing needs of homeless families within the Lee County area.

B. QUALIFICATION & DEFINITIONS

Chronically homeless families are defined as "either (1) an unaccompanied homeless individual or family with a disabling condition and is considered disabled and who has been continuously homeless for a year or more, OR (2) an individual or family with a disabling condition and considered disabled and who has had at least four episodes of homelessness in the past three years.

Homelessness is defined as a person sleeping in a place not meant for human habitation (e.g., living on the streets, for example) OR living in a homeless emergency shelter. A qualifying agency must be able to verify the instances of homelessness. Qualifying agency is one that works directly with the homeless and disabled population on a daily basis and one which that provides some type of supportive service to the family.

If the instances of homelessness cannot be verified, the family will not qualify for this preference.

The definition of chronically homeless will now include dedicated plus. In order to qualify for the category of Dedicated Plus the individual (s) must meet the following:

1. Residing in a transitional housing project that will be eliminated and meets the definition of chronically homeless in effect at the time in which the individual or family entered the transitional housing project;
2. Residing in a place not meant for human habitation, emergency shelter, or safe haven; but the individuals or families experiencing chronic homelessness as defined at 24 CFR 578.3 had been admitted and enrolled in a permanent housing project within the last year and were unable to maintain a housing placement;
3. 3. Residing in transitional housing funded by a Joint transitional housing (TH) and rapid re-housing (PHRRH) component project and who were experiencing chronic homelessness as defined at 24 CFR 578.3 prior to entering the project;
4. Residing and has resided in a place not meant for human habitation, a safe haven, or emergency shelter for at least 12 months in the last three years but has not done so on four separate occasions.

Families who meet this definition must also receive supportive services from a qualified agency. A qualified agency is one that provides supportive services to this specific population daily and on a

continuous basis. The family meets both requirements the family will receive the preference points. Families must maintain case management services while participating on the program unless discharged by the partnering agency as completed.

This preference will receive higher weight than any other local preference. There will be an allotment of 25 vouchers total (24 CFR 982.207(a)(3) • HUD authorizes PHAs to limit the number of applicants that may qualify for any local preference.) Once those vouchers are filled, the only time another slot will be available will be through attrition. Slot must be filled by replacing with a chronically homeless individual and/or family through a referral process from a qualified agency. Once the cap is met, and enough individuals are on the waitlist that meet the preference, HACFM may close the waitlist without notice. Project Based Waitlist for the chronically homeless will be treated on a referral basis from the owner and or manager of any chronically homeless project. Families who only meet the definition of chronically homeless will be placed on this specific waitlist and any other project-based programs specific to the chronically homeless.

C. AGENCY FUNCTIONS

HACFM

- Assess eligibility for individuals referred for participation with the Homeless Set-aside Voucher
- Coordinate with LCHVS and client on missing and incomplete data
- Certify customers for participation
- Perform all duties associated with HCV Move-In process
- Apply and coordinate services elected and provided by customer and/or LCHVS
- Coordinate with LCHVS and Housing Navigator, as needed

LCHVS

- Coordinate eligibility and processes with HACFM HCV Liaison
- Coordinate with Housing Navigator, as needed
- Select customers from Coordinated Entry system
- Assess eligibility for HSV based upon one of four criteria for homelessness and income
- Make direct referrals of qualifying individuals and families to HACFM:
    - Complete Referral,
    - Ensure customer completes Certification Packet
    - Collect all personal data of the family to include:
        - Valid ID's, Social Security Cards, Birth Certificates, and Proof of Income, etc… Refer to HACFM list of items needed
    - Then submit referral with all documents to Intake@hacfm.org
- Ensure customers provide date of birth, social security numbers, and income for all family members
- Connect customer to supportive services necessary to ensure successfully housed
- With consideration of HACFM's implementation of Waivers, coordinate and ensure HACFM is provided all missing documentation to support eligibility of voucher holder **within 90 days of certification**

- Assist voucher holders, as needed, to determine and identify assessment for service fees.

D. THIRD PARTY ENTITY ROLES RESPONSIBILITES

HACFM along with LCHVS has agreed to accept direct referrals from Abuse Counseling and Treatment Inc. known as ACT Shelter. ACT Shelter is a temporary emergency housing shelter that services victims of Domestic Violence and their children. Representatives of ACT will assess eligibility for HSV and immediately refer to HACFM. ACT representatives will advise customers of the relevance of Coordinated Entry when necessary and a separate MOU will be entered into with Abuse Counseling and Treatment Inc

E. PROGRAM EVALUATION

The PHA, and LCHVS or designated LCHVS recipient agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor, including possible random assignment procedures.

The Housing Authority of the City of Fort Myers

Section 8 Homeownership Voucher
Addendum I

The Housing Authority of the City of Fort Myers (HACFM) hereby establishes a Home Ownership Voucher option in Fort Myers, Florida, pursuant to the US Department of Housing and Urban Development's (HUD) proposed rule dated April 30, 1999, and pursuant to Section 555 of the Quality Housing and Work Responsibility Act of 1998, which authorizes HUD to carry out demonstration programs under section 8(y). The Final Rule, effective October 12, 2000, allows public housing agencies (PHAs) the option of providing Housing Choice Voucher assistance to an eligible family that purchases, rather than rents, a dwelling unit that will be occupied by the family.

Homeownership assistance offers a new opportunity for families that receive Housing Choice Voucher tenant-based assistance. As with other special housing types, the homeownership option does not require, and HUD does not provide, additional or separate funding. A PHA must use the voucher program funding previously established under existing Annual Contributions Contracts (ACC) to fund the Section 8 homeownership voucher program.

~~The HACFM will admit up to 5 new homeownership units per year. HACFM may exceed this number due to reasonable accommodation for a person with a disability. If this occurs, the PHA may reduce the number of units offered in subsequent years.~~

Participant Qualification

Any Housing Choice Voucher holder who has been issued a Housing Choice Voucher may utilize the subsidy to purchase rather than rent a home, subject to the following requirements:

1) A family must participate in the Family Self Sufficiency Program for one year prior to being referred to the Homeownership Voucher Program through the HACFM's FSS Coordinator. The FSS Coordinator will determine that the participant has met the initial requirements for referral to the program.

2) The Family Self Sufficiency Participant must have completed a HUD approved Home Buyer's Education Course and possess a certificate of completion from said program.

3) Current Housing Choice Voucher program participants must be in full compliance with their lease and all program requirements.

4) Applicants must be "first-time homeowners," where a family member must not have owned title to a principal residence in the last three years. Residents of limited equity cooperatives are eligible for the homeownership option.

Program Guidelines

1) Housing Choice Voucher participant must not have had any Bankruptcy or foreclosure within the last five years.
2) All derogatory items on the applicant's credit must be satisfied.
3) Participants in the HOV Program option must participate in the Homeownership Retention Program Activity or other HACFM designee's pre- and post-purchase homeownership counseling program. At a minimum, the counseling will cover the following:
   - Home maintenance.
   - Money management.
   - Credit counseling.
   - How to negotiate the purchase price.
   - How to obtain homeownership financing.
   - How to find an affordable home.
   - Advantages of purchasing
   - Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
   - Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.
4) The head of household or spouse must be employed full-time (employment must average a minimum of 30 hours per week) and have been continuously employed for a minimum of one (1) calendar year before applying to participate in homeownership program. Families in which the head of household or spouse are disabled, or elderly are exempted from this requirement. Families with a disabled household member may request an exemption as a reasonable accommodation. Disabled Head of Households or spouse must have been receiving Social Security Benefits for one (1) year prior to the commencement of HOV assistance.
5) The family's income may not be less than the federal minimum wage times 2000 hours. Public assistance income may not be used for meeting this requirement, except for households in which the head or spouse is elderly or disabled and households that include a disabled person other than head or spouse. (Public Assistance includes federal housing assistance or the housing component of a welfare grant; TANF assistance; SSI that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet family living or housing expenses.)
6) The participant will be required to provide one percent (1%) of the home purchase price as a down payment from the family's resource.

Eligible Units

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
- A public housing or Indian housing unit;
- A unit receiving Section 8 project-based assistance;
- A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
- A college or other school dormitory;
- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet NSPIRE (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

Screening and Determination of Readiness

The HACFM will review the Homeownership Voucher Program with all eligible HCV holders at the initial briefing and annual recertification.

The Pre-Application will be reviewed by the HACFM Family Self-Sufficiency Coordinator and/or HOV Coordinator for debt/asset ratio; minimum qualification status; employment status; escrow balances and Section 8 Program compliance status. If necessary, the FSS Coordinator or other staff member will schedule an appointment with the family to further determine their mortgage readiness.

Time Frame for Utilization

An applicant will have a maximum of 180 days to find a home and enter into a 'Contract for Sale'.

If an applicant is unable to enter into a 'Contract for Sale' before the end of the 180 day deadline, the applicant will be allowed to continue to utilize the voucher in a rental situation.

Any extension beyond 180 days will be at the sole discretion of HACFM's Executive Director.

Permitted Ownership Arrangements

The Homeownership option may be utilized in two types of housing.

1) A unit owned by the family, where one or more members hold title to the

home.

2) A cooperative unit, where one or more family members hold membership shares on the cooperative.

Contract for Sale and Inspection

Participants in the homeownership option program must complete a "Contract of Sale" with the owner of the property to be purchased.

The Contract of Sale must include the sale price and terms of sale, the purchaser's pre-purchase inspection requirements and notice that the sale is conditional on the purchaser's acceptance of the inspection report; and an agreement that the purchaser is not obligated to pay for necessary repairs.

The participant must obtain an independent professional home inspection of the unit's major systems at the participant's expense. The inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems.

HACFM or its designee will conduct a NSPIRE (NSPIRE) inspection and will review an independent professional inspection of the unit's major systems. HACFM or its designee retains the right to disqualify the unit for inclusion in the homeownership program based on either the NSPIRE inspection or the professional inspection report findings. The HACFM will perform a NSPIRE inspection for the first year of program participation. Based on the inspection, the family will be sent a list of suggested repairs. The HACFM will not, however, conduct a reinspection to determine if the repairs have been completed. In contrast to the Section 8 rental program, the family will not be considered noncompliant with the program if they fail to make repairs within a certain time frame.

If the home was constructed within 60 days of the Contract of Sale and has remained unoccupied during that time, the use and occupancy letter from the local codes administrator can be substituted for the pre-purchase inspection.

The participant must determine and document whether or not the unit is in a flood hazard area. Units in flood hazard areas must be insured for flood damage.

Financing

The household is responsible for obtaining financing; rate and terms of the first mortgage are subject to approval by HACFM or its designee. The first mortgage lender should be a federally-regulated financial institution. Any other lenders must be specifically approved by HACFM or its designee.

Length and Continuation of Assistance

HOV assistance will only be provided for the time period that the family occupies the home, not to exceed ten (10) years for a mortgage (15) fifteen years or less and (15) years for a mortgage (20) years or greater, unless the family is elderly or disabled. The participant will be recertified on an annual basis to determine income eligibility. In the event that the participant's income increases to the point that they are no longer eligible to receive a mortgage subsidy (i.e., zero mortgage assistance payment), the HACFM will notify the lender(s) of the family's increased financial responsibility for the payment. The family, however, remains eligible for the program, in the event that their income decreased, for 180 days (6 months) from the date of the change.

Exceptions for elderly and disabled families [24 CFR § 982.634]

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance in accordance with this part).

Family Obligations

Before commencement of homeownership assistance, the family must execute a "Statement of Homeownership Obligations" in the form prescribed by HACFM or its designee.

To continue receiving homeownership assistance, a family must comply with the following family obligations:

A. Comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt.

B. During the period of time the family is receiving homeownership assistance:

- The family may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home subject to the approval of HACFM or its designee.

- The family may not place any additional lien; take out a home equity loan or other encumbrance without prior written consent from HACFM and the mortgage lender.

- The family must supply required information regarding income and family composition in order to calculate correctly total tenant payment and homeownership assistance.

- The family must provide information on any mortgage or other debt incurred to purchase the home, and any refinancing of such debt, and any sale or other transfer of any interest in the home.

- The family must notify HACFM or its designee if the family defaults on a mortgage securing any debt incurred to purchase the home.

- The family must notify HACFM or its designee before the family moves out of the home.

C. The family must, at annual recertification, document that he or she is current on mortgage, insurance and utility payments,

Assistance Payment

The family's HOV monthly housing assistance payment will be the lower of (1) the HCV payment standard minus the Total Tenant Payment or (2) the monthly homeowner expenses minus the Total Tenant Payment.

Homeownership expenses include principal and interest on mortgage debt, refinancing charges of mortgage debt, taxes and other public assessments, insurance and utilities as per the Section 8 utility allowance schedule.

Housing assistance payments will be made by the HACFM directly to the mortgage lender.

The assistance payment will be adjusted to reflect changes in the payment standards.

If a family's income increases to a point that they do not receive a housing assistance payment, eligibility for such payments will continue for 180 calendar days. At the end of a continuous period of 180 days without any assistance payments, eligibility for HOV assistance will automatically terminate

Lease-to-Purchase

Lease-to-purchase agreements are considered rental property and subject to the normal tenant-based HCV rental rules. The family will be subject to the homeownership requirements at the time the family is ready to exercise the

homeownership option under the lease-to-purchase agreement.

Defaults

If a participant in the HOV Program defaults on his or her home mortgage loan as determined by the lender, the participant will not be able to use his or her Homeownership Voucher for rental housing. The head of household or other family members must reapply for the HCV rental assistance waiting list and be subject to the open-enrollment waiting time.

Recapture

If the participant sells the home prior to the affordability period of (10) ten to (15) fifteen year subsidy limit, a percentage of the homeownership assistance provided to date must be recaptured. The terms of the sale agreement will be reviewed by a HACFM staff member to determine the amount of profit earned in relation to participant payments and the HACFM HCV subsidy provided in accordance with 24 CFR Part Five 982.640.

- Only those proceeds realized upon refinancing that are retained by the family are subject to recapture.
- Sales proceeds that are used by the family to purchase a new home with HCV assistance are not subject to recapture. The family may also refinance the loan to take advantage of a lower interest rate without penalty.

The Housing Authority of the City of Fort Myers
Program Integrity Addendum

A. DETECTING ERRORS AND PROGRAM ABUSE

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

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HACFM will review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure compliance with NSPIRE standards [24 CFR, Part 985].

HACFM Policy

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

HACFM routinely will use HUD and other non-HUD sources of up-front income verification.

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

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

Independent Audits and HUD Monitoring

HACFM will perform independent audits under OMB Circular A-133. In addition, HUD conducts periodic on-site and automated monitoring of HACFM activities and notifies the HACFM of errors and potential cases of program abuse.

HACFM Policy

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

B. SUBSIDY UNDER- OR OVERPAYMENTS

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

Corrections

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

HACFM Policy

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

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

Reimbursement

Whether the family or owner is required to reimburse the HACFM or the HACFM is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse.

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

HACFM Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. HACFM may offer the family a repayment agreement and will be handled on a case-by-case basis. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance.

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

HACFM Policy

The HACFM will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family. If the error was caused by the PHA and funds are owed back to the family, the PHA will credit these funds through a debit card.

Prohibited Actions

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

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

PHA Policy

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

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

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

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HACFM on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

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

Penalties for Program Abuse

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

- Require the family to repay excess subsidy amounts paid by the HACFM, as described earlier in this section.
- Require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- Deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- Refer the family for state or federal criminal prosecution as described in section 14-II.E.

C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

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

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

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

HACFM Policy

In cases where the owner has received excess subsidy, the HACFM will require the owner to repay the amount owed in accordance with HUD policies.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
  - Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

    HACFM Policy

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

    - Charging the family rent above or below the amount specified by the PHA.
    - Charging a security deposit other than that specified in the family's lease.
    - Charging the family for services that are provided to unassisted tenants at no extra charge.
    - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit.
    - Knowingly accepting incorrect or excess housing assistance payments
    - Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
    - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA.
    - Residing in the unit with an assisted family
    - Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined under the Fair Housing Act.
    - Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment.

Remedies and Penalties

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

- Require the owner to repay excess housing assistance payments.
- Terminate the HAP contract.
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution.

D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACFM staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are

considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the HACFM personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4)]

The HACFM will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

HACFM will take corrective action to credit or repay a family if the family was overcharged rent, including when HACFM makes de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

HACFM Policy

The HACFM will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error. This will be paid through direct-debit.

Prohibited Activities

HACFM Policy

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

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

E. RECORD KEEPING

Records Retention Policy

The PHA will maintain complete and accurate accounts and records for all program participants in accordance with HUD regulations. Records will be retained to permit a speedy and effective audit and to ensure compliance with HUD reporting requirements, SEMAP indicators, and other federal standards.

Active Participants

- The PHA will retain a copy of the executed lease, the Housing Assistance Payments (HAP) Contract, and the application for the duration of each assisted lease and for a minimum of three (3) years thereafter.
- The PHA will maintain at least the last three (3) years of HUD-50058 forms and supporting documentation during the family's participation in the program.
- Enterprise Income Verification (EIV) printouts will be maintained in accordance with the PHA's record retention policy. HACFM will retain EIV data to support data entered into the last three years of 50058 data and for up to three (3) years following termination of assistance.
- Social Security Number (SSN) documentation may be destroyed once the individual's identity verification status is classified as "Verified" by EIV.

Inactive Participants

- For families that have exited the Housing Choice Voucher (HCV) program, the PHA will retain all participant file data for a minimum of three (3) years after program exit.
- Social Security Number (SSN) documentation may be destroyed once the individual's identity verification status is classified as "Verified" by EIV.

Exceptions and Special Circumstances

- Records subject to audit, investigation, or litigation will be retained until final resolution, regardless of standard retention timelines.
- Where applicable, the PHA will comply with state and local government record retention requirements, which may require longer retention periods than HUD's minimum.

Authority

This policy is consistent with the requirements of:

- **24 CFR 982.158(e) –** HCV Program record retention
- **24 CFR 908.101 –** Electronic transmission and record maintenance
- **Notice PIH 2018-18 (Section 17) –** HUD-50058 form retention
- **Notice PIH 2018-14 (Section 8) –** EIV data security and retention

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
NSPIRE	NSPIRE.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint

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MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

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. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). *The* written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

~~*Annual Income*. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.~~

Annual Income. Income determined under 24 CFR 5.609: generally anticipated income for admissions and interims, and prior-12-month income with required current adjustments for annual reviews. See Chapter 6 for exclusions, asset income, and streamlining.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

"As-paid" States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or

speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

Childcare expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national 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 co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the NSPIRE for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

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, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program **(**FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See "Disability Assistance Expense."

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

NSPIRE. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value for two years preceding examination or reexamination.

~~*Imputed Income.* HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.~~

Imputed Income. Income calculated for an asset whose actual returns cannot be calculated, when net family assets exceed HUD's annually adjusted threshold. Use HUD's current passbook rate on the applicable asset; see Chapter 6. The 2027 threshold is $54,898 and the rate is 0.38 percent.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or

is regarded as having such an impairment.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons.
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the NSPIRE. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

~~*Medical expenses*. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.~~

Medical expenses. Qualifying unreimbursed health and medical care expenses of an elderly or disabled family. Combined qualifying medical and disability-assistance expenses are deductible to the extent they exceed 10 percent of annual income, subject to applicable 5-percent or 7.5-percent phased-in relief and general hardship exemptions in Chapter 6.

Merger Date. October 1, 1999.

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

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Monthly adjusted income*.** One twelfth of adjusted income.

***Monthly income*.** One twelfth of annual income.

Mutual housing. Included in the definition of "cooperative."

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***Near-elderly family*.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

***Net family assets*.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

***Office of General Counsel (OGC)*.** The General Counsel of HUD.

***Owner*.** Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant *(participant family).* A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow aged 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called “tolling”.

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See “Family rent to owner”.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

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. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).